

STRATEGIES OF WRITING
STUDIES ON TEXT AND TRUST IN
MEDIEVAL EUROPE

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STRATEGIES OF WRITING STUDIES ON TEXT AND TRUST IN THE MIDDLE AGES

PAPERS FROM “TRUST IN WRITING IN THE
MIDDLE AGES”
(UTRECHT, 28-29 NOVEMBER 2002)

Edited by
Petra Schulte, Marco Mostert
and Irene van Renswoude



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This volume in the series *Utrecht Studies in Medieval Literacy*
is a tribute to

Michael Clanchy

who inspired much of its contents

Contents

Preface	xi
Einleitung PETRA SCHULTE	1
<i>Part I: 'Trust' and 'Writing'</i>	
<i>Fides publica</i> : Die Dekonstruktion eines Forschungsbegriffes PETRA SCHULTE	15
Forgery and Trust MARCO MOSTERT	37
<i>Part II: Charters</i>	
From Subscription to Seal: The Growing Importance of Seals as Signs of Authenticity in Early Medieval Royal Charters PETER WORM	63
30 June 1047: The End of Charters as Legal Evidence in France? KARL HEIDECKER	85
Illustration and Persuasion in Southern Italian Cartularies (c. 1100) BRIGITTE RESL	95
Trust in Writing: Charters in the Twelfth-Century County of Holland J.W.J. BURGERS	111

Part III: Historiography

Mechanisms of Authentication in Late Medieval North German Chronicles	
OLIVER PLESSOW	135
Trust and Visualization: Illustrated Chronicles in the Late Middle Ages: The Swiss Illustrated Chronicle by Diebold Schilling from Luzern, 1513	
JEANNETTE RAUSCHERT	165

Part IV: Letters

<i>Litterae, cartae, codices, petentes und notarii: Aspekte der Vertrauens- würdigkeit von Papsturkunden im Pontifikat Innozenz' III. (1198-1216)</i>	
UTA KLEINE	185
Trust and Mistrust in Letters: Late Medieval Diplomacy and Its Communi- cation Practices	
MICHAEL JUCKER	213

Part V: Political Communication

Suitable for Crown and Gown: The Ritual Context of the Royal Privileges for the University of Paris	
CHRISTOPH FRIEDRICH WEBER	239
Peace Treaties in Italian City Communes: Public Interaction and Written Record	
CHRISTOPH DARTMANN	253
Waging War and Making Peace with Written Documents: The King- dom of Poland against the Teutonic Knights (1411-1422)	
ANNA ADAMSKA	263
Point of Reference: Trust and the Function of Written Agreements in a Late Medieval Town	
FRANZ-JOSEF ARLINGHAUS	277

Rebels, Texts and Triumph: The Use of Written Documents during the Revolt of 1477 in Bruges	
JACOBA VAN LEEUWEN	301

Part VI: Possibilities of Trust in Writing

The Vikings' Trust in the Written Word	
TERJE SPURKLAND	325
Trusting Writing in Medieval Scandinavia	
ARNVED NEDKVITNE	337
Ways of Knowing and Meanings of Literacy in Twelfth-Century Admont	
CHRISTINA LUTTER	355

Part VII: Ausblick

Trust: Some Methodological Reflections	
DOROTHEA WELTECKE	379
“The Word Once Sent Forth Can Never Come Back”: Trust in Writing and the Dangers of Publication	
IRENE VAN RENSWOUDE	393

Preface

In German and Dutch scholarship, investigations of medieval ‘literacy’ have found a prominent place on the research agenda. This is reflected, e.g. in large-scale research projects such as that on pragmatic literacy, carried out at Münster in 1986-1999.¹ When at Utrecht, in 1996-2000, a project was investigating research on the uses of the written word in medieval Europe, scholars from both projects could not fail to become acquainted. Their contacts led to a first common workshop on the consequences of literacy (entitled *Folgen der Schriftlichkeit*), which was held in Utrecht on 27-29 November 1998. The workshop’s aim was to discuss approaches for studying the complex consequences of the introduction of writing in medieval societies. Apart from representatives from the Utrecht and Münster projects, scholars from Amsterdam, Vienna, Oslo and Zürich were also invited. The title of the workshop referred to the seminal publication of Jack Goody and Ian Watt of 1963;² the questions discussed were those addressed by them and developed in the inspiring works of Michael Clanchy, Walter Ong and Rosamond McKitterick.³

The three days’ discussions in November 1998 were found very stimulating by all who took part, and a second workshop was organized, again at Utrecht,

¹ See C. MEIER, “Fourteen years of research at Münster into pragmatic literacy in the Middle Ages: A research project by Collaborative Research Centre 231: Agents, fields and forms of pragmatic literacy in the Middle Ages”, in: *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages: A CD-rom and Book*, ed. F.-J. ARLINGHAUS, M. OSTERMANN, O. PLESSOW and G. TSCHERPEL (Turnhout, 2006: *Utrecht Studies in Medieval Literacy* 6b), pp. 23-39.

² J. GOODY and I. WATT, “The consequences of literacy”, *Comparative Studies in Society and History* 5 (1963), pp. 304-345 and reprinted several times, e.g. in: *Literacy in Traditional Societies*, ed. J. GOODY (Cambridge, 1968), pp. 27-68.

³ W.J. ONG, *Orality and Literacy: The Technologizing of the Word* (London, 1982). M.T. CLANCHY, *From Memory to Written Record: England 1066-1307* (London, 1979), 2nd edn. (Oxford, 1993). R. MCKITTERICK, *The Carolingians and the Written Word* (Cambridge, 1989).

on 28-29 November 2002, exactly four years after the first meeting. The theme chosen was *Trust in Writing*, which was then coming to be seen as a main consequence of literacy. The written word established itself as a medium because credibility was attached to what had been written down. The speakers were asked to address the question, why and how trust in writing came about. And under which circumstances was trust withdrawn from the written word? All those who had participated in 1998 were invited, as were several other colleagues, whose papers were thought to promise important contributions to the discussions.

This volume contains the proceedings of the workshop of 2002. Had the proceedings of the first workshop also been published, marked developments in the participants' thought would have become apparent. Some of these developments, however, took place in the five years in which the book took shape. As we observed in 2002, trust is an attitude based on experience. It is not created spontaneously, but requires "a process of observation and socialisation".⁴ This implies that the preconditions for trust are culturally decided and subject to change. Trust is expressed through communication. Written communication, however, uses rhetorical strategies which we discount at our peril when we wish to consider 'trust in writing'. The contributors proved to be aware of these difficulties. This gain in understanding is reflected both in the contributions and in the title the editors chose for this volume: *Strategies of Writing: Studies in Texts and Trust in the Middle Ages*.

One of the few papers presented at the workshop which did not make it into this volume was Michael Clanchy's "Making legal records look trustworthy in medieval England". His ideas on the matter may be learnt by reading chapter 9 of his *From Memory to Written Record*, which is in fact entitled "Trusting writing". Concerning himself with documents, already in 1979 he dealt with the problems of memory and writing, dating documents, signing documents, the symbolism of seals and crosses, and forging documents.⁵ The reader of the present volume cannot but notice the influence of Michael Clanchy's ideas; his book is quoted in most contributions, and the questions he posed in it inspired, directly or indirectly, all of them. From its first edition, *From Memory to Written Record* has managed to shape the thoughts of all historians who concern

⁴ U. FREVERT, "Vertrauen: Historische Annäherungen an eine Gefühlshaltung", in: *Emotionalität: Zur Geschichte der Gefühle*, ed. C. BENTHIEN, A. FLEIG and I. KASTEN (Köln, Weimar and Vienna, 2000: *Literatur – Kultur – Geschlecht: Studien zur Literatur- und Kulturgeschichte* 16), pp. 178-197, at p. 183.

⁵ CLANCHY, *From Memory to Written Record*, 2nd edn., pp. 253-293.

themselves with medieval literacy. As can be seen from the second edition, its author was in turn influenced by the research on medieval communication he himself inspired. We are told that a third edition is in preparation; once it is published, we will again have a sure guide to help us navigate the sea of publications published since the second edition appeared in 1993. It is a venerable custom among academics to offer volumes of miscellanies to those of their colleagues and friends whose fame and influence justify such heterogeneous collections of tokens of respect and esteem. More often than not their fate, it has been observed, has been to gather dust on library shelves, where they reassuringly guarantee their recipients' "*durée académique*".⁶ There is no question in the mind of the contributors to this volume that Michael Clanchy's fame, influence and age would warrant a *Festschrift* of some sort. Chances are, however, that the copies of such a miscellany would be gathering dust long before the works of their recipient, works which continue to be revised by their author – and which continue to be read and reflected upon by his colleagues and their students. We hope that a volume taking up one of his concerns, that of trusting writing, a volume which may lead to further studies, has a better chance of withstanding the encroaching dust. It is a happy coincidence that this volume appears in *Utrecht Studies in Medieval Literacy*, as Michael Clanchy consented to write an introduction to the first volume of the series, and has been associated with it ever since.⁷ We therefore dedicate this volume to Michael Clanchy, who inspired so much of its contents.

The editors would like to thank those who played a role in the organisation of the first workshop, Franz Arlinghaus, Brigitte Resl and Simon Teuscher. They would also like to express their thanks for the financial and organisational support provided for either or both of the workshops by the Westfälische Wilhelms-Universität (Münster), the Historisches Seminar der Universität zu Köln, the Netherlands Research School for Medieval Studies (Groningen), the Netherlands Organisation for Scientific Research (The Hague), the Research Institute for History and Culture of the Faculty of Humanities of Utrecht University, and the Utrecht Centre for Medieval Studies.

The articles in this volume have been kept for five years in the hands of the editors – a considerable period. We thank the authors for their patience and for their trust in us, the editors.

⁶ J. REVEL and J.-C. SCHMITT, "Présentation", in: *L'ogre historien: Autour de Jacques Le Goff*, ed. J. REVEL and J.-C. SCHMITT (Paris, 1998), p. 9.

⁷ M. CLANCHY, "Introduction", in: *New Approaches to Medieval Communication*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1), pp. 3-13.

Einleitung

PETRA SCHULTE

Im November 2002 haben sich, im Vorwort wurde bereits darauf verwiesen, überwiegend jüngere Historikerinnen und Historiker in Utrecht getroffen, um über ihre Forschungen zur mittelalterlichen Schriftlichkeit zu diskutieren. Obwohl unsere Untersuchungsgegenstände zeitlich, räumlich und inhaltlich variierten, besaßen wir eine gemeinsame Diskussionsbasis. Zwei Fragen leiteten unsere Gespräche: Zum einen interessierte uns, welcher Kommunikationsformen sich die Menschen wann und in welchen Situationen bedienten, um Vertrauen ineinander zu erzeugen oder zu festigen. Und ferner erschien uns von Bedeutung, aufgrund welcher Kriterien den Kommunikationsformen selbst Vertrauen geschenkt bzw. mit welchen Strategien vor allem schriftliche Aussagen glaubhaft gemacht wurden. Die Beiträge liegen nun als Aufsätze vor, und es ist an der Zeit, ein kurzes Resümee zu ziehen.

Vertrauen als soziales Bindungskonzept

Die Relevanz des Vertrauens für die heutige Gesellschaft gilt als unumstritten und wurde in den letzten Jahren in zahlreichen Studien thematisiert.¹ Die Versuchung, sie auch dem Mittelalter zu unterstellen, ist groß. Dass die Übertragung moderner Konzepte auf andere Epochen jedoch problematisch sein kann, zeigt das Beispiel der *fides publica* (S. 15-36). Die Idee des öffentli-

¹ Vgl. mit ausführlichen Literaturhinweisen *Vertrauen: Die Grundlage des sozialen Zusammenhalts*, ed. M. HARTMANN und C. OFFE (Frankfurt am Main und New York, 2001: *Theorie und Gesellschaft* 50); M. ENDRESS, *Vertrauen* (Bielefeld, 2002); B. LAHNO, *Der Begriff des Vertrauens* (Paderborn, 2002).

chen Glaubens notarieller Urkunden, der auf dem Vertrauen in den Staat und seine Institutionen basiert, ist ein Phänomen der Neuzeit. Spätestens seit dem 19. Jahrhundert wird sie in der Forschung aber auch für das Mittelalter angenommen. Bis heute verstellt die seitdem nicht hinterfragte *fides publica* den Blick darauf, dass die Glaubwürdigkeit der Urkunden trotz des sich durchsetzenden öffentlichen Notariats zunächst ein Experimentierfeld blieb. Unterlagen wir mit dem Rückgriff auf das Vertrauen einem ähnlichen Anachronismus? Mit Nachdruck weist Dorothea Weltecke (S. 379-392) darauf hin, dass die mittelalterliche *fides*, die *fiducia* und/oder die *confidentia* nicht im modernen Sinn als Vertrauen zu verstehen seien, sondern dass zwischen der mittelalterlichen und der heutigen Bedeutung von Vertrauen differenziert werden müsse. Der in unserer Zeit nahezu inflationär gebrauchte Begriff, der in seiner Vielschichtigkeit die philosophische ebenso wie die psychologische, theologische, politologische und wirtschaftswissenschaftliche Forschung beschäftigt, besitze andere Implikationen als die genannten lateinischen Termini. Ein weites Feld für die Geschichtswissenschaft öffnet sich: Eine Begriffsgeschichte des Vertrauens ist noch nicht geschrieben, könnte aber zu einem besseren Verständnis der Grundlagen unterschiedlicher gesellschaftlicher und politischer Ordnungen beitragen.²

Der Schwerpunkt der in diesem Sammelband vereinten Beiträge liegt auf dem 12. bis 15. Jahrhundert, und damit auf einer Zeit, in der der Unterstellung der Treue (*fides*, *fidelitas*) des anderen, d. h. der Aufrichtigkeit seiner Worte und der Authentizität seines Habitus, eine besondere Aufmerksamkeit geschenkt wurde. *Fides*, so schrieb der Erzbischof Balduin von Canterbury († 1190) im *Liber de commendatione fidei*, fordere der Freund vom Freund, der Genosse vom Genossen, der Herr vom Sklaven, der Kaiser vom Ritter, der Ehemann von der Ehefrau, kurzum: jeder, der lebe von dem, mit dem er lebe. Ohne die *fides* gebe es keine Regierungen, Verwaltungen und keine Beziehungen zwischen Liebenden, keine Königreiche, Städte und keine Familienhaushalte. Keine Verbindung von Menschen höheren oder niederen Ranges könne

² Das Thema 'Vertrauen' fand erst in den letzten Jahren Eingang in die mediävistische Forschung. Cf. D. WELTECKE, "Gab es 'Vertrauen' im Mittelalter? Methodische Überlegungen", in: *Vertrauen: Historische Annäherungen*, ed. U. FREVERT (Göttingen, 2003), S. 67-89; die Beiträge der Tagung "Vertrauensbildung durch symbolisches Handeln: Interdisziplinäres Kolloquium des Teilprojekts A2 'Konflikt- und Friedensrituale im Spätmittelalter' im Sonderforschungsbereich 496, Münster 29. September-1. Oktober 2004", in: *Frühmittelalterliche Studien* 39 (2005), S. 247-479; ferner P. SCHULTE, *Scripturae publicae creditur: Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003; *Bibliothek des Deutschen Historischen Instituts in Rom* 101).

ohne sie bestehen und im Zustand des Glücks verharren.³ Es gehört zur Begriffsgeschichte der *fides*, dass die Idee der Treue das ganze Mittelalter hindurch eng mit dem Konzept des christlichen Glaubens verwoben war.⁴ Irene van Renswoude (S. 393-413) verweist auf die Ursprünge dieser Vorstellung. Dennoch tritt uns ab dem 12. Jahrhundert verstärkt das Bemühen entgegen, in der Reflexion über den Zusammenhalt menschlicher Gemeinschaften und die Organisation von Herrschaft die Fäden zu entwirren und einzelne Bedeutungsstränge gesondert zu verfolgen. Dies heißt nicht, dass theologische, philosophische und juristische Gedankengänge sich nicht überschneiden. Auch blieb die Ausrichtung des menschlichen Handelns auf die göttliche Ordnung bestehen.⁵ Gleichzeitig gerieten aber dessen soziale Konsequenzen, rückte das Gemeinwohl stärker in das Blickfeld. Balduin von Canterbury hob hervor, dass Aufrichtigkeit gegenüber dem Nächsten bedeute, ihm im Gespräch und in Taten offen und ehrlich (*simpliciter*) entgegenzutreten, ohne den Willen, ihm zu schaden, und ohne die Absicht, ihn zu täuschen. Beides verstoße gegen das Recht der menschlichen Gesellschaft, das jedem von Natur aus bekannt sei und das besage, dass dem anderen nicht das angetan werden dürfe, was man nicht wolle, das es einem selbst geschehe. Dabei müsse die *fides* des Einzelnen seinem Bewusstsein gemäß (*simplicitas conscientiae*), nicht aufgrund der eventuellen Folgen seiner Worte und Taten beurteilt werden. Sie manifestiere sich in der Meinung des Glaubenden, dass derjenige, dem er glaube, nicht lügen möchte. Derjenige, dem geglaubt werde, müsse entsprechend gegenüber demjenigen,

³ Balduini Cantuariensis Archiepiscopi Liber de commendatione fidei, ed. in: PL 204 (Paris, 1855), Sp. 571-640, hier Sp. 571-573: "*Omnia foedera societatis humanae et amicitiae leges, et sua stabilitate constare possint, fidei sinceritate firmanantur et firmata servantur. Omnes homines fidem sibi servari volunt, etiam ii qui eam servare nolunt. Fidem exquirat amicus ab amico, socius a socio, dominus a servo, imperator a milite, maritus ab uxore, omnis qui vivit ab eo cum quo vivit. Sine fide nec gubernacula rerum ministrari, nec hominum officia vel ministeria dispensari, nec amantium paria valent combinari, non regna, non civitates, non singularum domicilia familiarum, non quicunque coetus majores vel minores hominum socialiter viventium, sine fide possunt constare, et in statu suae felicitatis permanere*". Cf. zu dieser Stelle J. WIRTH, "La naissance du concept de croyance (XII^e-XVII^e siècles)", *Bibliothèque d'humanisme et renaissance* 45 (1983), S. 7-58, hier S. 13.

⁴ T. GLOYNA, "Treue", in: *Historisches Wörterbuch der Philosophie* 10 (Darmstadt, 1998), Sp. 1473-1478; EAD., "Treue: Zur Geschichte des Begriffs", *Archiv für Begriffsgeschichte* 41 (1999), S. 64-85.

⁵ Auch bei Balduin von Canterbury, *Liber de commendatione fidei*, Sp. 573, heißt es: "*Quoniam autem bonum pacis cum hominibus et inter homines optabile est, et ad hoc bonum per veram fidem et amicitiam rectissime pervenitur: monemur ex hoc si ad pacem Dei, quae exsuperat omnem sensum, pertingere speramus, fidem Deo servare, et amicitiam ejus quaerere*".

der glaube, die Aufrichtigkeit wahren.⁶ Balduin von Canterbury setzte die *fides* in ein Begriffsumfeld von Liebe (*dilectio*) und Frieden (*pax*), ohne die kein menschliches Miteinander von Dauer sei und deren Voraussetzung sie bilde.⁷ In den Schriften vornehmlich späterer Autoren wurde die *fides* neben der *dilectio* und der Wahrhaftigkeit (*veritas*) unter die Tugend Gerechtigkeit subsumiert, in Anlehnung an Cicero als deren Fundament definiert und in der politischen Theorie als eine wichtige Grundlage des Gemeinwesens verstanden. Als sittliche Handlungsnorm sollte sie von den Herrschenden nicht nur vorgelebt, sondern darüber hinaus mit den Mitteln der Gesetzgebung und der Rechtsprechung geschützt werden. Das wechselseitige Vertrauen der Menschen ineinander wurde ebenso wie das Vertrauen zwischen König und Untertanen bzw. zwischen Stadtregiment und Bürgerschaft zu einem Merkmal gerechter Herrschaft.⁸

Intensiv mit dem Begriff des Vertrauens, der sich in unserem Kontext doch als treffend erweist, setzte sich der Dominikaner Thomas von Aquin († 1274) auseinander. Er leitete *fiducia* von *fides* ab, deren Merkmal es sei, etwas oder jemandem zu glauben. *Fides* entspreche einer unerschütterlichen Meinung (*opinio vehemens/firma opinio*) und beziehe sich auf das Wort des anderen ebenso wie auf die in ihn gesetzte Erwartung.⁹ *Fiducia* bedeute dement-

⁶ IBID., Sp. 573 f.: “*Fides proximo debetur, ut cum eo simpliciter loquamur, et in omnibus simpliciter agamus, ambulantes sine malitia et dolo, hoc est sine voluntate nocendi et intentione fallendi. Duo haec, iniquitas et dolus, sinceritatem fidei, quae in sociali vita servanda est, corrumpunt, et qui ex proposito satagit proximum fallere vel nocere, jus humanae societatis violat, dum fidem communi fraternitati debitam non observat. Jus autem non violandae societatis hoc est, quo cuique naturaliter intimatum est, alii non facere, quod sibi fieri non velit. Qui excusabili ignorantia deceptus, in simplicitate sua dicit aut facit, quo alius laeditur aut fallitur, non intendens ut eum laedat vel fallat: de hoc dicendum est, quod fidem non deserit, dum simplicitatem cordis custodit. Qui vero agit ut fallat, quamvis aliquo casu impeditus non fallat, hic fidem non custodit: quia simplicitatem deserit. ... Fides ergo nunquam verbo vel opere fallere intendit, ipsam tamen falli contingit. ... Is vero qui alteri credit fidem dicere habere verbis ejus, cui credit. Quae quidem fides opinione credentis aestimanda est, cum opinatur non mentiri eum, cui credit. Is autem cui creditur, fidem servare debet sibi credenti: quae quidem fides simplicitate conscientiae aestimanda est*”.

⁷ IBID., Sp. 573: “*Si fidem de medio tollas, vinculum dilectionis rumpetur, et omne foedus pacis dissolvetur. Non erunt, qui se invicem diligant, qui inter se pacem habeant, nisi sint qui sibi invicem credant. In omni communione socialis vitae inter homines gratiam dilectionis et pacis fides media conciliat. ... Sine amicitia vera nunquam pax vera; nam cum falsa pax praetenditur, et fides pariter fingitur, et amicitia simulatur*”.

⁸ Cf. P. SCHULTE, “Wann endet die Ewigkeit? Wortbruch, Instabilität und das Postulat der Dauer im französischen Spätmittelalter”, in: *Das Sein der Dauer*, ed. A. SPEER und L. WEGENER (*Miscellanea Mediaevalia*), im Druck.

⁹ Unter Rückgriff auf Cicero, *De inventione*, II, 163 (*De inventione: De optimo genere*

sprechend – die von Thomas von Aquin gewählten Beispiele machen die hinter ihnen stehende Idee sehr anschaulich –, sich der Aufrichtigkeit eines konkreten Versprechens oder aber der bestehenden Freundschaft mit einer Person und ihres Einflusses sicher zu sein und aus dieser Überzeugung Hoffnung auf Hilfe zu schöpfen.¹⁰ Das Vertrauen, das der auf einer festen Annahme beruhenden Kraft der Hoffnung (*robur spei*) gleichkomme, richtete sich auf das Gute und stünde der Furcht entgegen.¹¹ Da der Mensch von Natur aus ein *animal sociale* sei, bedürfe er der Mitmenschen und solle er Vertrauen in sie bzw. ihre Bereitschaft, ihn vor Schaden zu schützen, haben.¹²

oratorum / On Invention: Best Kind of Orator Topics, ed. H.M. HUBBELL (Cambridge, MA, und London, 1949: *The Loeb Classical Library* 386), S. 330), mit dem er sich an dieser Stelle auseinander setzte, bezog Thomas von Aquin auch das Selbstvertrauen in seine Betrachtung mit ein, erweiterte den Begriff jedoch um das – für uns wichtigere – Vertrauen in den Nächsten. Thomas von Aquin diskutierte die *fiducia* im Kontext des Großmuts (*magnanimitas*), den er wiederum der Stärke (*fortitudo*) unterordnete. Auch in diesem Punkt wich er von Cicero ab, der das Vertrauen (*fidencia / fiducia*) direkt unter die *fortitudo* subsumierte. Thomas von Aquin, *Summa Theologica*, II-II, q. 129 pr., ed. Albertus-Magnus-Akademie Walberberg bei Köln, Bd. 21 (Graz u.a., 1964), S. 129. Einen knappen Abriss der Geschichte des Begriffs bietet T. GLOYNA, „Vertrauen“, in: *Historisches Wörterbuch der Philosophie* 11 (Darmstadt, 2001), Sp. 986-990.

¹⁰ Thomas von Aquin, *Summa Theologica*, II-II, q. 129 a. 6 co., S. 118: „*Respondeo dicendum quod nomen fiduciae ex fide assumptum esse videtur. Ad fidem autem pertinet aliquid et alicui credere. Pertinet autem fiducia ad spem: secundum illud Job 11: 'Habebis fiduciam, proposita tibi spe.'* [Job 11. 18] *Et ideo nomen fiduciae hoc principaliter significare videtur, quod aliquis spem concipiat ex hoc quod credit verbis alicujus auxilium promittentis – Sed quia fides dicitur etiam opinio vehemens; contingit autem aliquid vehementer opinari non solum ex eo quod est ab alio dictum, sed etiam ex eo quod in alio consideratur: inde est quod fiducia etiam potest dici qua aliquis spem alicujus rei concipit ex aliquo considerato; quandoque quidem in seipso, puta cum aliquis, videns se sanum, confidit se diu victurum; quandoque autem in alio, puta cum aliquis, considerans alium amicum suum esse et potentem, fiduciam habet adjuvari ab eo*”.

¹¹ IBID., II-II, q. 129 a. 6 ad 3, S. 120: „*Ad tertium dicendum quod fiducia, sicut dictum est, importat quendam modum spei: est enim fiducia spes roborata ex aliqua firma opinione*”. IBID., II-II, q. 129 a. 6 ad 2, S. 119 f.: „*Ad secundum dicendum quod, sicut supra dictum est, cum de passionibus ageretur, spes quidem directe opponitur desperationi, quae est circa idem objectum, scilicet circa bonum: sed secundum contrarietatem objectorum opponitur timori, cujus objectum est malum. Fiducia autem quoddam robur spei importat. Et ideo opponitur timori, sicut et spes*”.

¹² IBID., II-II, q. 129 a. 6 ad 1, S. 119: „*Indiget enim omnis homo, primo quidem, divino auxilio: secundario autem etiam auxilio humano, quia homo est naturaliter animal sociale, eo quod sibi non sufficit ad vitam. Inquantum ergo indiget aliis, sic ad magnanimum pertinet ut habeat fiduciam de aliis: quia hoc etiam ad excellentiam hominis pertinet, quod habeat alios in promptu qui eum possint juvare*”.

Vertrauen in Schrift

Es ist kein erstaunliches, gleichwohl aber ein sehr spannendes Phänomen, dass sich parallel zu den theoretischen Reflexionen über die Bedeutung von *fides* und *fiducia* für das gemeinschaftliche Zusammenleben nicht nur neue Formen der weltlichen Herrschaftsorganisation und –legitimation, sondern auch der Kommunikation herauszubilden begannen.¹³ Unabhängig davon, ob sie in einer Monarchie, einem Fürstentum oder einer Stadtgemeinde angestrebt wurde, erschien die gerechte Ordnung idealiter nur dann verwirklicht, wenn sich jeder an das Gesetz hielt, niemand einen körperlichen oder materiellen Schaden erfuhr, der Ausgleich im Rechts- und Wirtschaftsleben garantiert war, die Verteilung von Ehren und Gütern des Gemeinwesens nach einem allgemein akzeptierten Muster erfolgte und schließlich das Gemeinwohl gewahrt wurde.¹⁴ Man bemühte sich um ein präzises, verlässliches und zugleich in den einzelnen Schritten nachvollziehbares Handeln. Das Medium der Schrift kam diesem Bedürfnis entgegen. Peter Worm (S. 63-83), Terje Spurkland (S. 325-335) und Karl Heidecker (S. 85-94) zeugen in ihren Beiträgen davon, dass die Schrift nach dem Untergang des römischen Imperiums nicht nur im Kontext der christlichen Glaubenslehre und Gotteserkenntnis, sondern auch im weltlichen Bereich weiterhin in Gebrauch war. Ein zeitlicher Schwerpunkt lag in der sogenannten „karolingischen Renaissance“, ein geographischer dort, wo ältere Traditionen fortlebten, also etwa in Italien, Rätien oder in Teilen Galliens. Ab dem 12. Jahrhundert erhielt die Schrift jedoch in allen Teilen Europas in einem je eigenen Tempo einen bis dahin unbekannten Stellenwert in der Gestaltung des privaten und politischen Lebens.¹⁵ Das gesprochene Wort sowie die es

¹³ Cf. *Aufbruch – Wandel – Erneuerung: Beiträge zur 'Renaissance' des 12. Jahrhunderts*, ed. G. WIELAND (Stuttgart, 1995: 9. *Blaubeurer Symposium*); H. KELLER, „La responsabilità del singolo e l'ordinamento della comunità: Il cambiamento dei valori sociali nel XII secolo“, in: *Il secolo XII: la "renovatio" dell'Europa christiana (Atti della XLIII settimana di studio, Trento, 11-15 settembre 2000)*, ed. G. CONSTABLE et al. (Bologna, 2003: *Annali dell'Istituto storico italo-germanico in Trento: Quaderni* 62), S. 67-88; ID., „Ordnungsvorstellungen, Erfahrungshorizonte und Welterfassung im kulturellen Wandel des 12./13. Jahrhunderts“, in: *Ordnungskonfigurationen im hohen Mittelalter*, ed. B. SCHNEIDMÜLLER und S. WEINFURTER (Ostfildern, 2006: *Vorträge und Forschungen* 64), S. 257-278.

¹⁴ Cf. *Gerechtigkeit im Diskurs des späteren Mittelalters*, ed. G. ANNAS, M. ROTHMANN und P. SCHULTE, im Druck.

¹⁵ H. KELLER, „Schriftgebrauch und Symbolhandeln in der öffentlichen Kommunikation: Aspekte des gesellschaftlich-kulturellen Wandels vom 5. bis zum 13. Jahrhundert“, *Frühmittelalterliche Studien* 37 (2003), S. 1-24. Die Literatur zum Thema ist umfassend. In Auswahl seien die folgenden Artikel und Sammelbände genannt: H. KELLER, „Vom 'heiligen Buch' zur 'Buchfüh-

unterstützenden Gebärden und symbolischen Akte wurden in der Regel nicht ersetzt, sondern auf den Text abgestimmt. In den Beiträgen von Jeannette Rauschert (S. 165-182), Michael Jucker (S. 213-236), Christoph Friedrich Weber (S. 239-252), Christoph Dartmann (S. 253-262) und Arved Nedkvitne (S. 337-353) tritt hervor, dass sie in veränderten Abläufen eine neue Funktion erhielten, die auf die Kontrolle des Geschriebenen, dessen öffentliche Verkündung oder den Zusammenhalt des Gemeinwesens zielten. In Konfliktsituationen wurde das schriftlich Fixierte – wie Franz-Josef Arlinghaus es formuliert (S. 277-299) – zum “Referenzpunkt”.

Den Zeitgenossen war bewusst, dass die Forderung nach Aufrichtigkeit im mündlichen Geäußerten und im schriftlich Niedergelegten nicht immer der Realität entsprach. Der Dominikaner Wilhelm Peraldus († 1271) bezeichnete die *fides* in der *Summa de virtutibus* als selten und kostbar.¹⁶ Die daraus resultierende Frage nach den Kriterien, die Anhaltspunkte bei dem Wagnis boten, die nicht mit den Sinnen erfassbare Wahrhaftigkeit des Gesagten oder Geschriebenen einzuschätzen,¹⁷ bedarf des Verweises auf historische Wandlungsprozesse, die Abhängigkeit von den örtlichen und zeitlichen

rung’: Lebensfunktionen der Schrift im Mittelalter”, *Frühmittelalterliche Studien* 26 (1992), S. 1-31; ID., “La scrittura e le scritture”, in: *Europa in costruzione: La forza della identità, la ricerca di unità (secoli IX-XIII) (Atti della XLVI settimana di studio del Centro per gli Studi Storici Italo-Germanici in Trento, Trento 15-19 settembre 2003)*, ed. G. CRACCO et al. (Bologna, 2006: *Annali dell’Istituto storico italo-germanico in Trento: Quaderni* 69), S. 443-466. *New Approaches to Medieval Communication*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1) [einschließlich M. MOSTERT, “A bibliography of works on medieval communication”, S. 193-297]; *Charters and the Use of the Written Word in Medieval Society*, ed. K. HEIDECCKER (Turnhout, 2000: *Utrecht Studies in Medieval Literacy* 5); *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages: A CD-ROM and Book*, ed. F.-J. ARLINGHAUS et al. (Turnhout, 2006: *Utrecht Studies in Medieval Literacy* 6b).

¹⁶ Guillelmus Peraldus, *Summa aurea de virtutibus et viciis* (Brescia: Britannicus, 1494), 1.8.

¹⁷ Sehr deutlich tritt dieser Aspekt der *fides* in der folgenden Definition hervor: “*Fides proprie dicitur ex hoc quod aliquis assentit eis quae non videt. Hoc autem contingit dupliciter. Uno modo secundum quod homo inducitur per rationem humanam. Et sic dicitur fides opinio vehemens. Et adhuc magis extenso nomine omnis certitudo quae fit per rationem humanam, etiamsi ad visionem inducat, dicitur fides, secundum quod argumentum dicitur ratio ‘rei dubiae faciens fidem’. Dicitur autem et veracitas hominis fides, inquantum est causa quod etiam credat quis de his quae non videt. Et sic dicit Tullius, quod fides est fundamentum iustitiae* [Marcus Tullius Cicero, *De officiis / Vom pflichtgemäßen Handeln*, ed. H. GUNERMANN (Stuttgart, 2003), I. 7 (23)], *fidem pro fidelitate accipiens. Et ulterius ipsa conscientia secundum quam aliquis hanc veracitatem tenet, dicitur fides. Rom. XIV, 23: ‘Omne quod non est ex fide’ [Rm 14. 23], Glossa: id est ex conscientia*” (Thomas von Aquin, *Scriptum super sententiis magistri Petri Lombardi*, Bd. 3, ed. M.F. MOOS (Paris, 1933), S. 755 f.).

Umständen sowie natürlich der jeweiligen Inhalte. Grundsätzlich ist festzustellen, dass einem notorischen Lügner damals wie heute kein Vertrauen geschenkt wurde und wird. Über den König schrieb Wilhelm Peraldus im Fürstenspiegel *De eruditione principum*, er sei als Vertreter Gottes auf Erden Hüter der Wahrheit. Bewahre er seine Glaubwürdigkeit, würde er gehört, wenn er den Menschen seinen und den Willen Gottes vermittele. Er solle insofern beim Schwur ebenso wie in der einfachen Rede die Lüge meiden. Wenn der Herrscher im Alltag nicht wahrhaftig sei, werde auch seinem Eid nicht geglaubt. Gleiches gelte für sein Schriftstück und sein Siegel.¹⁸ Bei anderen Autoren findet sich darüber hinaus die Mahnung, dass der König ein Vorbild für sein Volk sei.¹⁹

Die Intention einer Person konnte in der Regel nur vermutet werden. Ein wichtiges Indiz war ihr Ruf, der dem Juristen Albertus Gandinus († nach 1310) zufolge neben der Beachtung der Sitten und Normen maßgeblich an ihrem sozialem Status bzw. ihrer amtlichen Autorität gemessen wurde.²⁰ Hinzu traten Strategien der Überzeugung, zu denen die Rhetorik ebenso zählte wie die sich in Gebärden und Kleidung manifestierende äußere Erscheinung und die Bekräftigung der dauerhaften Bindung an das eigene Wort durch den Eid und/oder etwa durch ein Privileg oder einen Vertrag in schriftlicher Form.

In diesem Zusammenspiel der unterschiedlichen Kommunikationsformen kam der Schrift eine immer größere, eigenständigere Rolle zu. Hierauf wurde

¹⁸ Guillelmus Peraldus, *De eruditione principum* (Parma, 1864) [= www.corpusthomisticum.org/xre7.html], I. 7: “*Deus virtutis amator veritatis voluit esse tutor: unde sui nominis assumptione veritatem voluit confirmari. Vult etiam quod princeps qui ejus locum tenet, ejus sit tutor, et Scriptura sua, et sigillo suo eam confirmet; sed cum vivae voci principis mendacis non credatur, quomodo Scripturae et sigillo ejus credetur? Mendacium ex magna parte aufert validitatem sermonis, maxime tamquam est respectu proximi. Deo enim cui omne cor patet, et omnis voluntas loquitur, non est sermo tam necessarius, sed ad hoc est sermo necessarius, ut homines per eum sibi invicem suas indicent voluntates: sed si quis mendax est, et sibi non creditur, ejus sermone voluntas alteri non manifestatur. Cum autem princeps non solum suam, sed etiam divinam sermone populo habeat indicare, multum ejus mendacium obest: qui hanc utilitatem aufert, quodammodo os Dei est, ejus voluntatem indicando, quod nefarium est mendacio inquinare. Cavere debet princeps mendacium non solum in his quae asserit cum juramento, sed etiam verbo simplici. Sapiens: cujus dictum non habet pondus jusjurandi, ejus jusjurandum quodlibet vile est. Multi vero principes adeo facti sunt mendaces, ut etiam juramentis eorum non credatur. Mendacitas infidelitas est, ut ostendit Augustinus in Lib. de Doct. Christi [Sancti Aurelii Augustini De doctrina christiana, ed. J. MARTIN (Turnhout, 1962: Corpus Christianorum: Series Latina 32), I. 36]”.*

¹⁹ SCHULTE, “Wann endet die Ewigkeit?“, im Druck.

²⁰ Albertus Gandinus und das Strafrecht der Scholastik, 2, *Die Theorie: Kritische Ausgabe des Tractatus de maleficiis nebst textkritischer Einleitung*, ed. H. KANTOROWICZ (Berlin und Leipzig, 1926), S. 51-75.

bereits ebenso hingewiesen wie auf ihren Funktionswandel, der im 12./13. Jahrhundert mit der Herausbildung eines neuen Verständnisses von Gerechtigkeit und Recht, einer einsetzenden Gesetzgebung und einer steigenden Bedeutung des Gerichts als Ort der Konfliktaustragung einherging. Entsprechend wuchs die Zahl der Urkunden, in denen die Menschen die Versprechen der anderen bzw. ihre eigenen Ansprüche für die Zukunft festschreiben ließen, die sie aber auch, so Jan W.J. Burgers (S. 111-131), als "Statusobjekte" begriffen. Wer seine Rechte nicht mit einem Dokument belegen konnte – sei es, dass sie nicht klar definiert oder umstritten waren, sei es, dass über sie keine Urkunde ausgestellt worden oder das entsprechende Schriftstück verloren war – änderte die Situation, wenn er die Möglichkeit dazu besaß, in der Anfangsphase eigenmächtig. Brigitte Resl (S. 95-109) veranschaulicht, mit welchen Mitteln man die Authentizität derartiger Dokumente zu untermauern versuchte. Marco Mostert (S. 37-59) hinterfragt den Begriff der Fälschung vor der Folie der unterschiedlichen Grade der Literalität innerhalb der mittelalterlichen Gesellschaft. Trotz der offensichtlichen Anfälligkeit der Schrift für Manipulationen wurde akzeptiert, dass die Urkunde nicht nur die Aussagen der Zeugen vollständig zu ersetzen begann, sondern, wie Papst Alexander III. (1159-1181) in einer Dekretale erstmals festhielt, auch nach deren Tod bis zum Beweis der Fälschung als voll beweiskräftig galt.²¹

Es ist ein Charakteristikum der Schrift, dass sie das Wort materialisiert und insofern unabhängig von der es aussprechenden Person Bestand hat. Folglich muss nicht nur letztere, sondern auch das Medium an sich als glaubwürdig angesehen werden. Doch warum vertraute man einem Schriftstück, das zunächst nichts mehr war als die "Haut eines toten Tieres"²²? Und wie beurteilte man den umstrittenen Wahrheitsgehalt eines Dokuments? In der spätmittelalterlichen Rechtswissenschaft wurde unter Rückgriff auf theologische Glaubenskonzepte dargestellt, wie der Richter vom Zweifel (*dubietas*) zur festen Gewissheit (*fides*) gelangt. Für den Weg dorthin, die Einschätzung der Aufrichtigkeit der Zeugen (*fides testium*), erhielt er einen Katalog an Fragen und zu überprüfenden Standards, den er abzarbeiten hatte.²³ Ähnlich war bei

²¹ X. 2. 22. 2 (*Decretalium D. Gregorii Papae IX. Compilatio*, ed. E.L. RICHTER und E. FRIEDBERG (Leipzig, 1879; unveränderter Nachdruck Graz, 1959: *Corpus iuris canonici* 2), Sp. 344): "*Scripta vero authentica, si testes inscripti decesserint, nisi forte per manum publicam facta fuerint, ita, quod appareant publica, aut authenticum sigillum habuerint, per quod possint probari, non videntur nobis alicuius firmitatis robur habere*".

²² *Innocentii quarti pont. maximi in quinque libros decretalium apparatus seu commentaria* (Lugduni, 1577), zu X. 2. 22. 15, cap. XV. 1, fol. 182rb.

²³ S. LEPSIUS, *Von Zweifeln zur Überzeugung: Der Zeugenbeweis im gelehrten Recht*

der Kontrolle der Glaubwürdigkeit der Urkunden (*fides instrumentorum*) zu verfahren. Wurde die Aufrichtigkeit in der Ethik als eine sittliche Norm beschrieben, erhielt die *fides* in der Jurisprudenz eine rechtliche, nach bestimmten Kriterien zu beurteilende Qualität. Zu ihnen zählte bei den Schriftstücken das Siegel bzw. die Unterschrift des öffentlich autorisierten Schreibers, die Unversehrtheit von Text und Pergament, d. h. der Ausschluss von späteren Ergänzungen und Kanzellierungen, sowie die Nennung von Datum, Ort und eventuell von Zeugen.²⁴ Das Fälschen wurde angesichts der sich herausbildenden, wissenschaftlich fundierten Urkundenkritik schwieriger und bedurfte zunehmend professioneller Kenntnisse. Diese benötigte man auch, um vor Gericht den Urkunden der Gegenpartei u. a. aufgrund von Formfehlern die Gültigkeit abzusprechen, was Anna Adamska (S. 263-275) in ihrem Beitrag vorführt.

Bestand der Vorwurf, ein Schriftstück spiegele einen Sachverhalt unzureichend oder inkorrekt wider, und konnte dieser nicht durch die Untersuchung des äußeren Erscheinungsbilds bestätigt werden, verlängerte und verkomplizierte sich der Prozess erheblich.²⁵ Immer dichter werdende Vorgaben sollten nicht zuletzt vor diesem Hintergrund einen Betrug von vornherein verhindern und die Glaubwürdigkeit der Urkunden stärken. Das Vertrauen der Menschen ineinander wurde über das Vertrauen in das Medium begriffen und als zu schützende Grundlage des Gemeinwohls angesehen. Klar tritt dies in einem Eintrag in den *Libri memoriali* hervor, die die Stadt Bologna im Jahr 1265 anlegen ließ und in denen bis auf wenige Ausnahme alle Rechtsgeschäfte er-

ausgehend von der Abhandlung des Bartolus von Sassoferrato (Frankfurt am Main, 2003: *Studien zur europäischen Rechtsgeschichte* 160). Ferner E. ISENMANN, "Gelehrte Juristen und das Prozeßgeschehen in Deutschland im 15. Jahrhundert", in: *Praxis der Gerichtsbarkeit in europäischen Städten des Spätmittelalters*, ed. F.-J. ARLINGHAUS et al. (Frankfurt am Main, 2006: *Rechtsprechung: Materialien und Studien* 23), S. 305-417, hier S. 372-404. Cf. parallel E. GÖSSMANN, "Glaube: V. Mittelalter", in: *Theologische Realenzyklopädie* 13 (Berlin und New York, 1984), S. 308-318. Die Meinung (*opinio*) ist in der Glaubens- bzw. Erkenntnistheorie nicht mit der *fides* identisch (cf. hingegen Anm. 6 und 10), sondern bildet vielmehr ihre Vorstufe. Hierauf kann dieser Stelle jedoch nur verwiesen werden.

²⁴ W. TRUSEN, "Zur Urkundenlehre der mittelalterlichen Jurisprudenz", in: *Recht und Schrift im Mittelalter*, ed. P. CLASSEN (Sigmaringen, 1977: *Vorträge und Forschungen* 23), S. 197-219, wiederabgedruckt in: ID., *Gelehrtes Recht im Mittelalter und in der frühen Neuzeit* (Goldbach, 1997: *Bibliotheca eruditorum* 23), S. 635-657.

²⁵ Beispiele für Prozesse finden sich u.a. bei H.U. KANTOROWICZ, "Schriftvergleichung und Urkundenfälschung: Beitrag zur Geschichte der Diplomatik im Mittelalter", *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 9 (1906), S. 38-56; J.W. BUSCH, *Certi et veri cupidus: Geschichtliche Zweifelsfälle und ihre Behandlung um 1100, um 1300 und um 1475: Drei Fallstudien* (München, 2001: *Münstersche Mittelalter-Schriften* 80), S. 101-125.

fasst werden sollten, die einen Wert von zwanzig Pfund überschritten. Im Jahr 1266 hielt der Notar Amator de Butrio in salbungsvoller Prosa fest, die Bücher seien geschaffen worden,

damit der Betrug weicht, das Recht herrscht, die Sünde verschwindet, die Wahrheit regiert – daher, damit nicht die Wahrheit oder das Wesen der Verträge in der Höhe von über 20 Pfund, die unter anderen in üblicher Weise geschlossen wurden, in der Zukunft verändert oder durch das Gewand der Leugnung verdeckt werden kann, sondern den Zukünftigen und Gegenwärtigen stets ohne den beunruhigenden Zweifel des Verdachts erscheint und augenscheinlich glänzt – und [damit] der Glaube an die Glaubwürdigkeit (*fides fidei*) das Zeugnis ankündigt und bestätigt sowie die Lüge aus Bologna und ihren Grenzen vertrieben wird, die makellose und unveränderliche Richtigkeit der Verträge weiterbesteht und die aus der festen Gewissheit geborene Wahrheit (*ex fide nata veritas*) in Bologna bewahrt wird.²⁶

Mit Hilfe der *Libri Memoriali* verlasse Bologna, eigentlich Mutter der Wahrheit und des Rechts, das Labyrinth der Unwahrheit und befinde sich wieder auf dem rechten Pfad.

Die Maßnahme, die in 1265 in Bologna ergriffen wurde, ist eine von vielen allein in dieser Stadt. Überall dort, wo Schrift als ein Gestaltungsmittel zwischenmenschlicher Beziehungen betrachtet wurde, lässt sich das Bestreben nachweisen, die *fides* der Urkunden zu stützen. Die jeweiligen Bemühungen zeugen von dem stets neu hervortretenden, sich stets auf neue Kritikpunkte stützenden latenten Misstrauen, dem Bedürfnis der Ergänzung und Verfeine-

²⁶ Archivio di Stato di Bologna, Ufficio dei memoriali, Memoriali, vol. 2 (anno 1266), f. 125r: “*Quia Bononia, que mater est veritatis et iuris, inhundantibus falsitatibus hominum et malitia succrescente videbatur a rectudinis [rectitudinis] limite deviare et in laberinthum corruere falsitatis, inventum est per prudentes iuris et usus laudabile scripturarum remedium et memorialium offitium nuncupatum. Ut malitia pereat, iustitia vigeat, iniquitas abeat et veritas principet – ideoque ne veritas sive substantia contractuum numeri vigesima amp[lioris] inter aliquos sollempniter initorum alterari possit in posterum vel infitiationis velamine occultari, sed futuris et presentibus absque suspitionis [scrupolo] semper appareat et clareat manifesta – et fides fidei testimonium indicet et confirmet et falsitas de Bononia et eius finibus repellatur et rectitudo contractuum intemerata et immutabilis perseveret et ex fide nata veritas in Bononia conservetur, ego Amator condam domini Petri de Butrio imperiali auctoritate notarius et nunc communis Bononie ad hoc una cum domino Guezo Guiscardi, Bonaventura Hominisboni et Jacobino Aldrovandini notariis memorialium offitium deputatus seguendo formam et modulum per viros venerabiles et colendos fratres Lotterengum et Cathelanum ordinis gloriose Virginis Marie pro excludendis fraudibus et falsitatibus contractuum adinventum infrascriptos contractus per ordinem registravi sub regimine domini Johannis Canis honorabilis Bononie potestatis currente anno Domini millesimo ducentesimo sexagesimo sexto indictione nona*”.

rung der rechtswissenschaftlichen Definitionen sowie der Institutionalisierung bzw. dem Ausbau von Herrschaft. Aufrichtigkeit, Wahrhaftigkeit und – mit beiden verbunden – der Wille, niemandem zu schaden, waren Werte, die es in Gesetzgebung und Rechtsprechung zu schützen galt. Um eine Atmosphäre des Vertrauens war kontinuierlich zu ringen. Sie konnte weder vorausgesetzt noch erzwungen werden, galt jedoch als ein Merkmal gerechter Herrschaft.²⁷ Dass die *fides* der Urkunden *de facto* folgerichtig nicht auf starren, sondern auf veränderlichen Kriterien beruhte, wird bei Uta Kleine (S. 185-211) deutlich, dass die Schrift auch zum Politikum werden konnte, zeigt Jacoba van Leeuwen (S. 301-322).

Kommen wir zum Schluss: Die Analyse des Vertrauens bringt in die wissenschaftliche Auseinandersetzung mit dem Thema der Schriftlichkeit einen neuen Blickwinkel ein, unter den sich bereits erzielte Erkenntnisse gut einordnen lassen, der jedoch auch den Anreiz bietet, in der Verbindung von Kultur-, Sozial- und Rechtsgeschichte scheinbar Feststehendes nochmals zu hinterfragen. Die Autorinnen und Autoren dieses Sammelbandes haben sich dem Ansatz, der sich auch – Oliver Plessow (S. 135-163) und Christina Lutter (S. 355-376) arbeiten dies heraus – für die Untersuchung textimmanenter Argumentationen eignet, mit großem Engagement gestellt.

²⁷ In einer Tyrannis hingegen würden, wie Thomas von Aquin schrieb, Freundschaftsbünde verhindert, sei der Friede innerhalb des Gemeinwesens unerwünscht und werde das Misstrauen der Untertanen untereinander geschürt: “*Conantur igitur predicti tyranni ne ipsorum subditi virtuosus effecti magnanimitatis concipiant spiritum et eorum iniquam dominationem non ferant. Conantur etiam ne inter subditos amicitie fedus firmetur et pacis emolumento ad invicem gaudeant, ut sic, dum unus de altero non confidit, contra eorum dominium aliquid moliri non possint*” (Sancti Thomae de Aquino *De regno ad regem Cypri*, ed. H.-F. DONDAINE (Rom, 1979: *Editio Leonina* 42), lib. 1 cap. 3, S. 453a).

Part I:
'Trust' and 'Writing'

Fides publica: Die Dekonstruktion eines Forschungsbegriffes¹

PETRA SCHULTE

I.

In Deutschland erlernen die Studierenden die Historischen Hilfswissenschaften in der Regel mit der Hilfe von Ahasver von Brandt, dessen Standardwerk mit dem Titel *Werkzeug des Historikers* mittlerweile in der 17. Auflage vorliegt. In ihm findet sich die folgende Definition der üblicherweise mit ‘öffentlichem Glauben’ übersetzten *fides publica*:

Öffentlichen Glauben, d. h. vor allem: gerichtliche Unanfechtbarkeit bis zum Beweis der Fälschung, genießen traditionell zunächst nur die Urkunden der höchsten geistlich-weltlichen Spitzen der mittelalterlichen Weltordnung, also die der Päpste, Kaiser und Könige – daneben die Urkunden der von diesen Instanzen eingesetzten öffentlichen Urkundspersonen, also die Notariatsinstrumente.²

Ich komme direkt zum Punkt: Der Begriff der *fides publica* wird von Ahasver von Brandt ebenso wie in allen jüngeren Studien anachronistisch verwendet. Die eben aufgezählten Urkundenarten haben im Mittelalter zu keinem Zeit-

¹ Die Fragestellung ist aus meiner Dissertation *Scripturae publicae creditur: Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003; *Bibliothek des Deutschen Historischen Instituts in Rom* 101) erwachsen. Eine englische Zusammenfassung der Ergebnisse bietet mein Beitrag “Notarial documents”, in: *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages: A CD-ROM and Book*, ed. F.-J. ARLINGHAUS *et al.* (Turnhout, 2006: *Utrecht Studies in Medieval Literacy* 6b), S. 197-237.

² A. VON BRANDT, *Werkzeug des Historikers: Eine Einführung in die Historischen Hilfswissenschaften* (Stuttgart, Berlin und Köln, 2007¹⁷), S. 89.

punkt *fides publica* besessen. Der Begriff diene nicht der Beschreibung der urkundlichen Beweiskraft. Er war an einen ganz anderen Kontext gebunden, und zwar an den des Geleitschutzes, der im spätmittelalterlichen Heiligen Römischen Reich synonym *salvus conductus* genannt wurde.³

Kann diese Feststellung noch mit großer Sicherheit getroffen werden, öffnet sich ein weites, kaum zu überschauendes Feld, beginnt man mit der Suche nach den Ursprüngen der Bedeutungserweiterung des Begriffs der *fides publica* und seiner Übertragung auf die beweiskräftige Urkunde. Das *Deutsche Wörterbuch* bietet in dem von Hans Neumann verfassten und 1939 erschienenen Artikel "Glaube" den Hinweis, dass öffentlicher Glaube "die 'öffentlich anerkannte glaubwürdigkeit' einer urkunde" bedeute, und zwar "in neuerer juristischer sprache".⁴ Dies ist ein wichtiger, jedoch diffus bleibender Anhaltspunkt. Um ihn zu konkretisieren, müssten zurück bis in das beginnende 16. Jahrhundert Entwicklungen im gemeinen Recht, in der partikularen Gesetzgebung, den Gerichtsordnungen und den Handbüchern zur Notariatskunst ebenso verfolgt werden wie in den Konversationslexika, die wichtige gesellschaftliche Strömungen zu spiegeln vermögen. Dabei sollte der Blick idealiter nicht nur auf Deutschland ruhen, sondern sich auf Europa richten. Eine derart umfassende Analyse kann im Moment nur ein Fernziel darstellen. Dennoch lässt sich in Grundzügen umreißen, wie die *fides publica* aus dem juristischen Sprachgebrauch der Neuzeit in die deutsche historische Forschung gelangte. Da letztere wiederum den Juristen als Beleg für die richtige Verwendung des Begriffs diene, schloss sich ein Kreis und wurde ein wechselseitiges Referenzsystem etabliert, in dem das Konstrukt des öffentlichen Glaubens nicht mehr hinterfragt und seine Existenz ab dem 12. Jahrhundert als selbstverständlich vorausgesetzt wurde. Dies führte dazu, dass wir die mittelalterlichen Urkunden, vor allem die Notariatsurkunden, lange Zeit aus einer falschen Perspektive heraus betrachtet haben. Die folgende Darstellung wird insofern auch zeigen, dass wir uns über das zeitgenössische Vertrauen in ihre Inhalte neu Gedanken machen müssen.

³ Dies gilt bis in das 18. Jahrhundert. Als Beleg angeführt sei der Eintrag "Fides publica", in: J.H. ZEDLER, *Grosses vollstaendiges Universal-Lexicon* 9, 'F' (Halle und Leipzig, 1735; Neudruck Graz, 1961), col. 837: "Fides publica, ist so viel, als das sichre Geleithe". Cf. hingegen das Stichwort "Fides instrumentorum", *ibid.*, col. 826: "Fides instrumentorum, der Glaube, und Beweisß der Schrifften".

⁴ "Glaube", in: *Deutsches Wörterbuch von Jacob Grimm und Wilhelm Grimm* 4.1.4, *Gewöhnlich-Gleve*, ed. Deutsche Akademie der Wissenschaften zu Berlin (Leipzig, 1949), cols. 7777-7819, hier col. 7810. Der Artikel "Glaube" erschien in der 8. Lieferung im Jahr 1939.

II.

Der Blick in die gängigen Fachlexika führt die Problematik, die dem Begriff des öffentlichen Glaubens inhärent ist, unmittelbar vor Augen. Das *Lexikon des Mittelalters* hat auf den Eintrag „*fides publica*/öffentlicher Glaube“ verzichtet. Im *Handwörterbuch zur deutschen Rechtsgeschichte* heißt es unter „Notar, Notariat“ einleitend: „Der Notar protokolliert in privatem oder öffentlichem Auftrag rechtserhebliche Geschehnisse. Über das, was er dabei hört und sieht, fertigt er Urkunden aus. Diese Urkunden genießen öffentlichen Glauben, das heißt, sie erbringen vollen Beweis für das Gehörte und Gesehene“.⁵ Folgt man dem eingefügten Verweispfel und schlägt das Stichwort „Öffentlicher Glaube“ nach, wird man feststellen, dass der Autor, Herbert Hofmeister, mit keinem Wort auf Notariatsurkunden Bezug nimmt. Er schreibt: „Öffentlicher Glaube ist die durch amtliche Führung und Prüfung der Eintragungsunterlagen gewährleistete Glaubwürdigkeit und Zuverlässigkeit der öffentlichen Bücher (Grundbuch, Handelsregister und andere)“.⁶ Dass Herbert Hofmeister den öffentlichen Glauben im Kontext des Urkundenbeweises nicht erwähnt, ist erstaunlich. Denn die *fides publica* hat auch Eingang in die heutige Zivilprozessordnung (ZPO) gefunden. § 415 Abs. 1 ZPO lautet:

Urkunden, die von einer öffentlichen Behörde innerhalb der Grenzen ihrer Amtsbefugnisse oder von einer mit öffentlichem Glauben versehenen Person innerhalb des ihr zugewiesenen Geschäftskreises in der vorgeschriebenen Form aufgenommen sind (öffentliche Urkunden), begründen, wenn sie über eine vor der Behörde oder der Urkundsperson abgegebene Erklärung errichtet sind, vollen Beweis des durch die Behörde oder die Urkundsperson beurkundeten Vorganges.

Diese Festlegung führt zu neuen Fragen: Überträgt die „mit öffentlichem Glauben versehene Person“ diesen öffentlichen Glauben auf die Urkunde? Muss hiervon indirekt ausgegangen werden? Ab wann wurde der öffentliche Glaube in welchen diskursiven Zusammenhängen als eine Eigenschaft der öffentlichen Urkunde, des Notariats bzw. des Grundbuchs gesehen? Und was ist jeweils unter dem öffentlichen Glauben zu verstehen? Meinen weiteren Ausführungen seien erste Beobachtungen vorangestellt. Der Begriff des öffentlichen Glaubens wurde erstmals im 18. Jahrhundert auf Urkunden bezogen. Der Bedeutungs-

⁵ G. DOLEZALEK und K.-O. KONOW, „Notar, Notariat“, in: *Handwörterbuch zur deutschen Rechtsgeschichte* 3 (Berlin, 1984), cols. 1043-1049, hier col. 1043.

⁶ H. HOFMEISTER, „Öffentlicher Glaube“, in: *Handwörterbuch zur deutschen Rechtsgeschichte* 3 (Berlin, 1984), cols. 1187-1189, hier col. 1187.

wandel fällt somit in das von Reinhart Koselleck als "Sattelzeit" bezeichnete Jahrhundert zwischen 1750 und 1850, in dem "wie in einem Prisma jene Termini, die politische und soziale Sachverhalte bezeichnen, gebündelt und anschließend in veränderter Form wieder in die Welt entlassen wurden".⁷ Der öffentliche Glaube bildet seitdem ein Synonym für den älteren, parallel im Gebrauch bleibenden Begriff des "vollen Glaubens"⁸ sowie für "Glaubwürdigkeit",⁹ "allgemeine Anerkennung"¹⁰ und die oben bereits zitierte "gerichtliche Unanfechtbarkeit bis zum Beweis der Fälschung".¹¹ Der öffentliche Glaube einer Urkunde impliziert, dass an sie "die Beweisvermutung der Wahrheit"¹² geknüpft wird und sie "vollen Beweis aller dadurch beglaubigten Thatsachen für und gegen Jeden"¹³ begründet. Noch im 18. Jahrhundert wurde der Begriff ferner auf das Notariat ausgeweitet. Er steht für die an das öffentliche Amt geknüpfte Annahme, dass der Notar bei der Errichtung der Urkunde im Rahmen seiner Befugnisse gehandelt und die notwendigen Formalitäten beachtet habe.¹⁴ Erst Ende des 19. Jahrhunderts – dies ist ein unabhängig zu untersuchender und hier nur der Vollständigkeit halber aufgeführter Entwicklungsstrang – machte man den öffentlichen Glauben zum wesentlichen Charakteristikum des deutschen Grundbuchwesens. In ihm stellt er eine Rechtsfiktion dar, die im Sinne des Verkehrsschutzes nach § 892 Abs. 1 BGB (Bürgerliches Gesetzbuch) gewährleistet, dass zugunsten "desjenigen, welcher ein Recht an einem Grundstück oder ein Recht an einem solchen Recht durch Rechtsgeschäft erwirbt", der Inhalt des Grundbuchs als richtig gilt, "es sei denn, dass ein Wi-

⁷ C. DIPPER, "Die 'Geschichtlichen Grundbegriffe': Von der Begriffsgeschichte zur Theorie der historischen Zeiten", *Historische Zeitschrift* 270 (2000), S. 281-308, hier S. 292. Cf. auch "Begriffsgeschichte, Sozialgeschichte, begriffene Geschichte: Reinhart Koselleck im Gespräch mit Christof Dipper", *Neue Politische Literatur* 43 (1998), S. 187-205, hier S. 194-197.

⁸ Cf. Anm. 24.

⁹ Selbst Winfried Trusen, der in seiner Arbeit quellennah und konsequent von der (vollen) Glaubwürdigkeit der Notariatsinstrumente spricht, lässt sich zum Gebrauch des Begriffs *publica fides* verleiten. W. TRUSEN, "Zur Geschichte des mittelalterlichen Notariats: Ein Bericht über Ergebnisse und Probleme neuerer Forschung", *Zeitschrift für Rechtsgeschichte, Rom. Abt.* 98 (1981), S. 369-381, hier S. 374. Siehe ferner Anm. 30.

¹⁰ H. GRZIWOTZ, *Kaiserliche Notariatsordnung von 1512: Spiegel der Entwicklung des Europäischen Notariats* (München, 1995), S. 53.

¹¹ VON BRANDT, *Werkzeug des Historikers*, S. 89.

¹² C. REITHMANN, "Wandel der Aufgaben des Notars", in: *25 Jahre Bundesnotarkammer 1961-1986: Sonderheft der Deutschen Notar-Zeitschrift* (München, 1986), S. 37*-49*, hier S. 39*.

¹³ K. DICK, *Das gemeinrechtliche Deutsche Notariat in seinen Grundzügen und Parallelen zur Rheinpreußischen Notariats-Ordnung* (Bonn, 1871), S. 43.

¹⁴ Sehr deutlich wird dies in der sächsischen Notariatsordnung von 1892. Cf. Anm. 53.

derspruch gegen die Richtigkeit eingetragen oder die Unrichtigkeit dem Erwerber bekannt ist”.¹⁵ In Anlehnung an das Grundbuch wurde der öffentliche Glaube in der Folge auch auf weitere öffentliche Bücher angewendet.¹⁶

III.

Wie ich bereits festgestellt habe, existierte der Begriff der *fides publica* im mittelalterlichen Urkundenwesen nicht.¹⁷ In den Statuten der ober- und mittelitalienischen Kommunen, in den italienischen juristischen Abhandlungen und

¹⁵ J. von Staudingers Kommentar zum Bürgerlichen Gesetzbuch mit Einführungsgesetz und Nebengesetzen 3: Sachenrecht §§ 883-902, Neubearbeitung 2002 von K.-H. GURSKY (Berlin, 2002), § 892 [I. Grundlagen 1. Entstehungsgeschichte 1] setzt die Entstehung des öffentlichen Glaubens im 18. Jahrhundert an. Dies ist in Bezug auf das Grundbuch zumindest begrifflich nicht korrekt. Bereits im Jahr 1902 hat K. FREIHERR VON REIBNITZ, *Der öffentliche Glaube des Erbscheins im Vergleich mit dem öffentlichen Glauben des Grundbuchs* (Berlin, 1902), S. 19 angemerkt: “Aber trotzdem der grosse Gesetzgeber [Karl Gottlieb Svarez, P.S.] die Wichtigkeit des materiellen Publicitätsprinzips richtig erkannt und dasselbe auch im Allgemeinen Landrecht für das Hypothekenbuch ausgesprochen hat, so finden wir weder in der Hypothekenordnung vom 20. Dezember 1783, noch im Allgemeinen Landrecht einen Rechtssatz, der den Begriff des öffentlichen Glaubens feststellt. Ebenso sind in dem Eigentumserwerbsgesetz vom 5. Mai 1872 (§§ 9 Abs. 2, 11, 38, 49) zwar die Konsequenzen aus dem Schutz des öffentlichen Glaubens zum Ausdruck gebracht, das Prinzip selbst aber ist in einem Rechtssatz nicht aufgestellt. Erst das Bürgerliche Gesetzbuch hat dies im § 892 gethan”. Cf. zu den Vorläufern des heutigen Grundbuchs W. SCHUBERT, *Die Entstehung der Vorschriften des BGB über Besitz und Eigentumsübertragung: Ein Beitrag zur Entstehungsgeschichte des BGB* (Berlin, 1966: Münsterische Beiträge zur Rechts- und Staatswissenschaft 10), bes. S. 95-100.

¹⁶ Cf. HOFMEISTER, “Öffentlicher Glaube”, cols. 1187-1189.

¹⁷ Ausnahmen sind mir allein aus dem 12. Jahrhundert bekannt. *Summa Codicis des Irnerius*, ed. H. FITTING (Berlin, 1891), zu Cod. 4. 21, S. 93: “*Item instrumenta quoque speties probationum sunt. quorum auctoritas maxima est propter fidem publicam*”. Zur Diskussion um Autor, Entstehungsort und Datierung des Werkes, das dessen Herausgeber Hermann Fitting fälschlicherweise dem Bologneser Rechtslehrer Irnerius († nach 1125) zuschrieb, A. ERRERA, *Arbor actionum* (Bologna, 1995: *Archivio per la storia del diritto medioevale e moderno* 1), S. 202-205 mit Anm. 127; H. LANGE, *Römisches Recht im Mittelalter*, 1, *Die Glossatoren* (München, 1997), S. 402-407. Eine weitere Stelle findet sich in Hugo, *De expediendis iudiciis*, in: *Corpus Glossatorum Juris Civilis* 1, ed. M. VIOLA (Turin, 1973) [Nachdruck der Ausgabe Mainz, 1535], S. 133 [De instrumentis, tit. 18]: “*Item instrumenta speties probationis sunt. auctoritas quoque, propter publicam fidem, maxima est.*” Zum ungesicherten Ursprung auch dieser Schrift LANGE, *Römisches Recht*, S. 188-189 und 213. Der Befund bedarf einer eigenen Analyse, die hier nicht geleistet werden kann. Denkbar wäre eine Übernahme des Begriffs aus dem römischen Recht, auch wenn sich die *publica fides* in ihm auf “behördliche Verhandlungsprotokolle” beschränkte. Cf. A. WACKE, “Ursprung der Freiwilligen Gerichtsbarkeit”, *Deutsche Notarzeitschrift* (1988), S. 732-750, hier S. 743.

Werken der Notariatskunst des 12. bis 14. Jahrhunderts wird lediglich von der *fides* des Notars und der (*plena/plenissima*) *fides* der Urkunden gesprochen.¹⁸ Der Jurist und Notar Salathiel († 1280) beispielsweise definiert den Notar als eine öffentliche Person, die ein öffentliches Amt ausübe und auf deren *fides* man öffentlich zurückgreife, damit sie das, was zwischen den Menschen geschehe, niederschreibe und zur dauerhaften Erinnerung in eine öffentliche Form bringe.¹⁹ Petrus de Unzola († 1312) hält in seinem Kommentar der *Summa totius artis notariae* des Rolandinus Passagerii († 1300) fest, das Notaramt gelte als eine Würde (*dignitas*), weil es öffentlich sei und seine Inhaber öffentliche Personen genannt würden. Ferner wohne dem Notaramt eine so große Autorität (*auctoritas*) inne, dass den Urkunden derjenigen, die ein solches ausübten, im ganzen Römischen Reich geglaubt werde. Würde, Autorität und Notaramt seien „aus der Öffentlichkeit stammend“, was „vom Kaiser gewährt“ bedeute.²⁰

¹⁸ SCHULTE, *Scripturae publicae creditur*, S. 4-11, 27-33.

¹⁹ Salathiele, *Ars notarie*, 2, *La seconda stesura dai codici della biblioteca nazionale di Parigi Lat. 4593 e Lat. 14622*, ed. G. ORLANDELLI (Milano, 1961: *Opere dei maestri* 2), prohemium, S. 7: „*Est autem notarius quedam publica persona publicum officium gerens ad cuius fidem hodie publice decurritur ut scribat et ad perhemnem memoriam in publicam formam reducat ea que ab hominibus fiunt*“.

²⁰ Petrus de Unzola, *Tractatus notularum*, in: *Summa Totius Artis Notariae Rolandini Rodulphini Bononiensis* (Venedig, 1546; Neudruck Bologna, 1977), f. 407ra: „*Officium notariae est dignitas, et autoritas ad legitimorum negociorum hominum notam de publico introductam. Et attende optima verba in descriptione ista. Nam in eo quod dicit dignitas. Nota quod qui ad tabellionatus officium eligitur ad dignitatem vocatur. Officium enim publicum est: et administratores eius publice personae vocantur. ut ff. rem pupil. sal. fo. l. ii. [Dig. 46.6.2] et hinc est, quod servi, vel infames, quia a dignitatibus repelluntur. ad tabellionatus officium aspirare non possunt. ut C. de tabel. (tabularii) l. Generali. [Cod. 10.71/69.3] et arg. C. de dignitatibus. l. ii. [Cod. 12.1.2]. Tabelliones etiam qui officii prefati administrationem habent digni et sufficientes ab omnibus presumi debent: quia a principe eliguntur, et dubitare, an is sit dignus, quem princeps elegerit, sacrilegii instar est. ut C. de cri. sacri. l. ii. [Cod. 9.29.2]. ... Super eo autem quod dicitur in diffinitione, et autoritate notabis, quod magne est autoritatis officium istud. Nam qui ipsum habet, tante est autoritatis, ut suis scripturis credatur per totum Romanum imperium. ut supra dixi. Sequitur postea ad legitimorum negociorum hominum notam. Ad quod scias, quod officium istud inventum est ad notanda, et in memoriam redigenda legitima hominum negocia scilicet contractus, ultimas voluntates et iudicia. Sequitur postea de publico introducta. Super quod nota, quod dignitas et autoritas nostra et officium nostrum de publico emanavit id est ab imperatore. Imperator enim dignitatem et autoritatem prefatam nobis concedit“.*

Cf. zur Investitur der Notare, die nicht nur vom Kaiser, sondern auch vom Papst und von delegierten Personen und Institutionen beider Gewalten vorgenommen werden konnte, A. MEYER, *Felix et inclitus notarius: Studien zum italienischen Notariat vom 7. bis zum 13. Jahrhundert* (Tübingen, 2000: *Bibliothek des Deutschen Historischen Instituts in Rom* 92), S. 12-47; SCHULTE, *Scripturae publicae creditur*, S. 33-38. Zum Konzept der *auctoritas* G. COSTAMAGNA, *Il notariato nell'Italia settentrionale durante i secoli XII e XIII*, in: *Notariado público y documento privado: de los*

Bei Papst Innozenz IV. (1243-1254) findet sich die Auffassung, dass sich die Autorität des Notars auf die Urkunde übertrage.²¹ Um Glauben (*fides*) bzw. vollen oder vollkommenen Glauben (*plena/plenissima fides*) und vor Gericht ohne weitere Hilfsmittel Beweiskraft zugesprochen zu bekommen, hatte die Urkunde eine öffentliche zu sein. Diese Qualität erlangte sie dadurch, dass sie von einer öffentlichen Person verfasst und geschrieben wurde.²² Die Niederschrift musste zudem öffentlich, d. h. in öffentlicher Form unter Hinzufügung der *publicationes*, der Angaben von Datum, Ort und Zeugen sowie der Unterschrift des Notars, erfolgen.²³ Ferner hatte das Notariatsinstrument im Original vorzuliegen und durfte keine Rasuren, Kanzellierungen oder sonstigen Beschädigungen aufweisen.²⁴

Die in Notariatskunst und Rechtswissenschaft formulierten Vorstellungen prägten das – Differenzen und Entwicklungen in der Praxis verdeckende – Bild des Notariats bis in die Neuzeit und gelangten ab dem 13. Jahrhundert in das

origenes al siglo XIV. Actas del VII Congreso Internacional de Diplomática, Valencia, 1986, 2 (Valencia, 1989), S. 991-1008, hier S. 999-1007.

²¹ *Innocentii quarti pont. maximi in quinque libros decretalium apparatus seu commentaria* (Lyon, 1577) zu X 2.22.10 v. *Tabellionem*, cap. x. 7, f. 181va: "... quia dictum instrumentum non habuit auctoritatem, nisi a notario".

²² Petrus de Unzola, *Tractatus notularum*, in: *Summa Totius Artis Notariae*, f. 470ra: "*Instrumentum publicum est solennis et rite ordinata scriptura per auctentice persone manum publice causa memorie facta. ... Publicum instrumentum est illud, quod scriptum est manu publicae id est tabellionis. Nam tabellio publica persona dicitur. ut instit. de adop. § Cum autem [Inst. 1.11.3]*".

²³ *Summa Totius Artis Notariae, Tractatus notularum*, f. 406v: "*Et est notarius persona privilegiata ad negocia hominum publice et auctentice conscribenda, qui etiam diversis nominibus nuncupatur*" Dazu Petrus de Unzola, *ibid.*, f. 406vb: "*Primo, quod publice, id est in publicam formam, debent negocia hominum notari id est ut sint in instrumento ea, que reddunt ipsum ubilibet publicum. videlicet anni domini, inditio, dies, mensis. in quo fit instrumentum: locus, testes, et subscriptio nominis tabellionis Si enim tabellio aliquid notaret, nec publicationes in instrumentis necessarias apponeret. non daretur fides instrumentis. ut in auc. ut praeponatur nomen imperato. § i. [Nov. 47.1]. Item secundo super verbo publice colligas, quod publice notari debent negocia hominum id est per manum publicam tabellionis*". Ferner *ibid.*, f. 470ra: "*Item ad hoc ut instrumentum sit publicum, debet habere formam publicam id est quod habeat publicationes, quae in instrumentis publicis apponi debent*".

²⁴ Petrus de Unzola, in: *Summa Totius Artis Notariae, Tractatus notularum*, f. 406vb: "*Scriptura autem tabellionis tunc est auctentica, et fide digna, ... quando originalis est: et quando non est abrasa, vel cancellata, vel abolita. vel in aliqua parte vitiosa: et tunc ei creditur, et statur per totum romanum imperium. Publicis enim instrumentis datur plenissima fides sine altero adminiculo. ut C. de pro. l. Cum precibus [Cod. 4.19.18]. Si autem abrasa, vel cancellata, vel abolita, vel vitiosa, vel exemplata scriptura fuerit, non est auctentica id est non creditur ei. nec fides plena adhibetur. ut C. de edic. divi Adri. tol. l. finali [Cod. 6.33.3] et C. de eden. auc. siquis in aliquo documento [Cod. 2.1.7 Auth. Si quis in aliquo (ex Nov. 119.3)]*".

deutsche Reichsgebiet. Zwar lag die Durchsetzung des öffentlichen Notariats hier nicht zwangsläufig in Einflüssen aus Italien begründet, sondern erfolgte, wie neuere Untersuchungen etwa von Peter-Johannes Schuler gezeigt haben, seit den 30er Jahren des 13. Jahrhunderts auch über Frankreich und die west- und südwestdeutschen Bistümer.²⁵ In dem Bemühen jedoch, Missständen vorzubeugen und einheitliche Regelungen zu schaffen, scheint die Orientierung am italienischen Vorbild durch. Die lateinischen Begriffe, die sich im Zuge der wissenschaftlichen Beschäftigung mit dem Urkundenbeweis jenseits der Alpen ausgebildet hatten, wurden so genau wie möglich in die deutsche Sprache übersetzt. Den Begriff des öffentlichen Glaubens sucht man dementsprechend in den Quellen vergebens. Vielmehr heißt es etwa in einem 1502 in Nürnberg gedruckten Handbuch zur Notariatskunst, der Notar sei

ein offne person. dem dan befolhen ist des ampt der beschreibung. zu wellichem man ein trewe zuflucht hat. das er beschreib. und in ewig gedechtnus einbring. die ding. so von den menschen geschehent.²⁶

²⁵ P.-J. SCHULER, *Geschichte des südwestdeutschen Notariats: Von seinen Anfängen bis zur Reichsnotariatsordnung von 1512* (Brühl und Baden, 1976: *Veröffentlichungen des Alemannischen Instituts Freiburg/Br.* 39), S. 26-85. Siehe auch O.P. CLAVADETSCHER, "Die Notariatsurkunde auf dem Weg vom Süden nach dem Norden", in: *Kommunikation und Mobilität im Mittelalter: Begegnung zwischen dem Süden und der Mitte Europas (11.-14. Jahrhundert)*, ed. S. DE RACHEWILTZ und J. RIEDMANN (Sigmaringen, 1995), S. 221-229.

²⁶ *Kunst deß Notariat und wie sich der Notarius in seinem Ampt halten und regieren soll. Ist verdeütscht. Durch den Ernwyrdigen geystlichen. herren Andressen nawer. Arcium Magister. Der zeit Pfarer zu Lorch. Dess Jarß Alls man zalt Funfftzehundert und zwey yar. In der Funfften Indiction. Bey herschung und regierung deß Allerdurchleuchtigisten Großmechtigistenn Fursten und herren. Herren Maximilian Roemischen Kunigs etc. Seiner konigklichen Maiestat Kroenung Im Sybentzehenden Jar* (Nürnberg, 1502), f. IIR-v. Die deutschsprachigen Handbücher harren noch der systematischen Erforschung. Eine erste Einführung bieten W. SCHMIDT-THOMÉ, "Das Notariat", in: *Vom Sachsenspiegel zum Code Napoléon: Kleine Rechtsgeschichte im Spiegel alter Rechtsbücher* (Köln, 1965), S. 171-199; P.-J. SCHULER, "Formularbuch und Notariat", in: *Forma servata: Vijf opstellen over formulieren en formulierboeken in het notariaat van de Middeleeuwen tot vandaag*, ed. P.L. NÈVE und J.J. VERBEEK (Deventer, 1998: *Ars notariatus* 85), S. 1-50. Als weitere Beispiele seien zitiert: *Notariat und Schreiber Kunst / Wes sich ein Notarius oder Schreiber in seinem Ampt / mit allen Cautelen/Gebraeüchen und Regeln / Ihm / nach außweisung beyder Rechten / zuwissen noetig / zuhalten hab / in XXIII. Capitel verschlossen* (Straßburg, 1529), f. IIR: "Was ein Notarius sei. Notarius oder Tabellion ist ein offener Schreiber / dem da was gehandelt würdt / treulich zubeschreiben vertrawet würdt / Notarius heýßt sovil als ein mercker / das er treulich mercken und beschreiben sol alles darunb er angelangt würdt. Tabellion wirdt genennt von einer tafel / darinn man vorzeiten schreyb / Werden also genent in weltlichen Rechten". *Thesaurus Notariorum. Das ist: Notariat Und Formular Buch. Von newem übersehen / verbessert / auch wie auß den zu Eyngang und End gesetzten Registern zu ersehen / mehr alß zuvor niemaal augirt / gemehrt / und jetz zum sechsten mahl in Truck verfertigt: Durch*

Die Notariatsordnung, die im Jahre 1512 auf dem Reichstag in Köln unter Maximilian I. (1486-1519) erlassen wurde, spricht von dem

Ambt der offen Notarien dardurch dye handlung und willen der menschen (damit sye nit in vergessen gesetzt) durch mitten der schriftt in ewiger gedechtniß behalten und durch glaubwirdig offen urkund bevestigt werden.²⁷

Auch beschreibt sie den Aufbau der öffentlichen Urkunde, da

nach dem von gemainem rechten / brawch / übung und gewonhait eingefürt ist / das jn auffrichtung der Offen Instrumenten und jr sollemneteten diß form gehalten.²⁸

Von der Notwendigkeit der Vorlage eines unversehrten Originals vor Gericht wurde implizit ausgegangen.²⁹

J. R. SATTLERN (Basel, 1636), S. 1: *“Der erste Theil dieses Buchs. Vom Notariatampt in gemein. Das 1. Capitul. Quaestio 1: Was ist das Notariatampt? Das Notariat / ist ein Kunst / und offen Ampt / durch welches der menschen Handlungen unnd Geschafft / in zierlich offen und glaubwuerdig Schriftliche Formen / zu glaubhafter ewiger gedaechnuß gebracht / und erhalten werden. ... Quaestio 2: Welche werden Notarii genannt? Die / welche das Notariatampt ueben / und von denen welche mit einander contrahirn oder handeln / zu dem end requirirt und erfordert werden: daß sie das / welches dieselben mit einander contrahiern oder handeln / fleissig in acht oder gemerck nemen / und demnach zu ewiger Gedaechnuß unnd beweißthumb / ihnen darueber glaubwuerdige offene Schrifften / oder briefflche Schein (so gemeinlich Instrumenta genannt werden) anstellen / machen / und verfertigen. Quaestio 3: Was ist ein Notarius? Notarius ist ein gefreyte offene Person / deren rechtmaessig auffgerichtete Schrifften / auß krafft der Rechten / vollkommenen Glauben haben. ... Oder: Notarius ist ein zulaessige Person / die vom gewalt eines Obern darzu befreyet und geordnet: daß sie menschliche Handlungen / auff vorgehende Requisition / rechtmaessig in Schriftt bringen und verfassen soll / damit durch dieselbige Schriftt / solche Handlungen unwidersprechlich bewiesen werden moegen”.*

²⁷ Zitat nach der Präambel der Urfassung, die noch 1512 von Johann Schöffner in Mainz gedruckt und herausgegeben wurde. A. MEYER, *Die Notariatsordnungen von 1512 und 1871 als Beiträge zur Rechtssicherheit: Festschrift des Delegiertentages der österreichischen Notariatskammern anlässlich des hundersten Jahrestages der Kundmachung der Notariatsordnung 1871* (Salzburg, 1971), Faksimile der Notariatsordnung von 1512, f. Iir. Einen weiteren Zugang zum Text ermöglicht auch GRZIWOTZ, *Kaiserliche Notariatsordnung von 1512*. Zur Überlieferung der Reichsnotariatsordnung F. OESTERLEY, *Das deutsche Notariat: Nach den Bestimmungen des gemeinen Rechts und mit besonderer Berücksichtigung der in den deutschen Bundesstaaten geltenden partikularrechtlichen Vorschriften geschichtlich und dogmatisch dargestellt*, 1, *Geschichte des Notariats* (Hannover, 1842; Neudruck Aalen, 1965), S. 493-508.

²⁸ MEYER, *Die Notariatsordnungen von 1512 und 1871*, Faksimile der Notariatsordnung von 1512, f. Iiv.

²⁹ Dies belegen Regelungen zu Radierungen und Einfügungen in den Urkunden, zum

Obwohl die Forschung das Fehlen des öffentlichen Glaubens bemerkt hat, unterstellt sie dessen Existenz hartnäckig. Hermann Conrad schreibt, dass die Notariatsordnung zwar keine Vorschriften über den öffentlichen Glauben enthalte, der notariellen Urkunde in der "gemeinrechtlichen Doktrin" jedoch "öffentlicher Glaube und erhöhte Beweiskraft beibemessen" worden sei.³⁰ Und Herbert Griwotz, um ein weiteres Beispiel zu nennen, geht in diesem Sinne davon aus, die Notariatsordnung habe den öffentlichen Glauben als "Rechtstatsache" vorausgesetzt.³¹ Beide verkennen, dass die Beweiskraft der Urkunde durch ihre Charakterisierung als 'glaubwürdig' und 'öffentlich' hinreichend ausgedrückt war. Die Annahme, dass bereits der mittelalterlichen Jurisprudenz das Konzept des öffentlichen Glaubens bekannt gewesen sei, verstellt den Blick auf das Naheliegende.

Erst im 18. Jahrhundert begann sich die Definition des Notars, die bis dahin häufig knapp gelaute hatte, er müsse glaubwürdig und rechtmäßig eingesetzt (*fidelis et legalis*) sein,³² und seiner Urkunden zu ändern. Im Jahr 1740 hielt

Urkundenmaterial und zur Sprache. *Ibid.*, f. IIIIV.

³⁰ H. CONRAD, "Die geschichtlichen Grundlagen des modernen Notariats in Deutschland", in: *Deutsche Notar-Zeitschrift* 1 (1960), S. 3-33, hier S. 31. W. TRUSEN, "Notar und Notariatsinstrument an der Wende vom Mittelalter zur Neuzeit: Zu den gemeinrechtlichen Grundlagen der Reichsnotariatsordnung von 1512", in: *Beiträge zur Rechtsgeschichte: Gedächtnisschrift für Hermann Conrad*, ed. G. KLEINHEYER und P. MIKAT (Paderborn u.a., 1978: *Rechts- und Staatswissenschaftliche Veröffentlichungen der Görres-Gesellschaft* N.F. 34), S. 545-566, hier S. 557-558, führt die gemeinrechtliche Doktrin aus und schreibt richtig: "Für das gelehrte Recht ist ein *instrumentum publicum* zunächst eine Urkunde, die offen, in der Öffentlichkeit, zumindest mehreren zugänglich, erstellt wird, wobei die Person des Ausstellers sicher nicht ohne Bedeutung ist. Letztlich wird darunter eine Urkunde verstanden, die vor Gericht *volle Beweiskraft* besitzt, d. h. ohne Heranziehung anderer Beweismittel, wie etwa Zeugen oder Eid, also eine Urkunde, der modern gesprochen, öffentlicher Glaube zukommt".

³¹ GRZIWOTZ, *Kaiserliche Notariatsordnung von 1512*, S. 53.

³² Cf. etwa H. KUPPERMANN, *Vollständige Notariats-Kunst, oder practische Anleitung für Notarien über vorkommende Notariatsgeschäfte jeder Art, so wohl überhaupt, als auch in Hinsicht des bürgerlichen, peinlichen und Untersuchungs-Processes nicht allein ein richtiges Protocoll zu führen, Gerade- Heergeraeths- Kauf- und andere Verträge, Testamente, Codicille, Versiegelungs- und Aussiegelungshandlungen, Inventuren und Verlassenschaftsverzeichnisse, Wechselproteste, Schiffs- und Waaren- Versicherungsverträge, Bodmerybriefe u.s.w. zu fertigen und gehörig zu vollziehen, sondern auch eine öffentliche Notariatsurkunde darüber auszufertigen nebst vorausgeschickten Notariatsgesetzen und einer Einleitung über den Ursprung, die Rechte und Pflichten der Notarien überhaupt* (Hamburg, 1806), S. 52 [Edikt Kaiser Karls V., 3. August 1548, betreffend die am Reichskammergericht tätigen Notare]; F. OESTERLEY, *Das deutsche Notariat: Nach den Bestimmungen des gemeinen Rechts und mit besonderer Berücksichtigung der in den deutschen Bundesstaaten geltenden partikularrechtlichen Vorschriften geschichtlich und dogmatisch dargestellt*, 2, *Darstellung des geltenden Rechts* (Hannover, 1845; Neudruck Aalen, 1965), S. 724 n. 7 [Nürnberger Reform von 1564, Tit. 8; Hessische Gerichtsordnung von

Johann Heinrich Zedlers *Grosses vollstaendiges Universal-Lexicon* in Band 24 unter dem Stichwort “*Notarien, offene Kayserliche Notarien*” fest:

Es haben aber dergleichen oeffentliche Schreiber (*Notarii Publici*) ihr Ansehen und Gewalt vom Roem. Kayserl. oder Koenigl. Majestaeten, oder Paebstl. Heiligkeit, oder endlich denen so genannten Hof- und Pfalz-Grafen, und haben, so weit sich deren Bothmaeßigkeit und Gewalt, oder Landes-Herrlichkeit erstrecket, voelligen Glauben.³³

Ferner wurde notiert, dass

daß ein Notarius oder oeffentlicher Schreiber und Richter eigentlich eine oeffentliche und freye Person sey, so von dem Roemischen Kayser oder Koenige, und andern, so keinen Ober-Herrn erkennen, oder deren Pfalz-Grafen darzu bestaetiget und verordnet worden, daß er dem gemeinen Besten dienen soll, und wenn er zu einer Sache erbeten wird, die Handlungen und Willens-Meynungen derer Menschen, damit sie nicht in Vergessenheit gerathen, vermittelt einer deshalb verfertigten Schrifft oder so genannten Instruments, in ewiger Gedachtniß behalten und durch glaubwuerdige offene Urkunden befestiget werden.³⁴

In dem sechs Jahre zuvor erschienenen siebten Band, der den Eintrag “*Documentum Publicum*” enthält, ist zu lesen:

Documentum Publicum, heist eine offne Urkunde, welches *auctoritate publica & fide* gemacht ist. Werden also genennet, weil sie durch Obrigkeitl. Auctoritaet von *personis publicis* verfertigt werden. ... Hieher gehoeren auch die von einem *Notario* verfertigte *Instrumenta*, als welcher eine *Persona publica* ist, und vom Kayser eine *publicam auctoritatem* ueberkommen hat, *Instrumenta* zu verfertigen.³⁵

Im *Zedler* rücken im Hinblick auf den Notar die öffentliche Autorität und die Glaubwürdigkeit, die synonym als “völliger Glaube” bezeichnet wird, in

1497, Art. 23]. Zum Notariat in der Frühen Neuzeit S. WENDEHORST, “Zwischen Kaiser und Reichsständen: Das öffentliche Notariat in der Frühen Neuzeit”, in: *Reichspersonal: Funktionsträger für Kaiser und Reich*, ed. A. BAUMANN et al. (Köln, 2003: *Quellen und Forschungen zur höchsten Gerichtsbarkeit im Alten Reich* 46), S. 343-351.

³³ “Notarien, offene Kayserliche Notarien”, in: J.H. ZEDLER, *Grosses vollstaendiges Universal-Lexicon*, 24, ‘Neu-Nz’ (Leipzig und Halle, 1740; Neudruck Graz, 1961), cols. 1394-1401, hier col. 1397.

³⁴ *Ibid.*, col. 1398.

³⁵ “*Documentum publicum*”, in: J.H. ZEDLER, *Grosses vollstaendiges Universal-Lexicon*, 7, ‘D’ (Halle und Leipzig, 1734; Neudruck Graz, 1961), col. 1127.

der Paarformel *auctoritas publica et fides* eng zusammen. Der Begriff der *auctoritas publica*, der schon im Mittelalter belegt ist,³⁶ verweist auf die kaiserliche Investitur als Ursprung notariellen Handelns, wurde in anderen Quellen aber auch für das auf dem Notaramt beruhende Ansehen der Urkunde gebraucht.³⁷ Für die zeitgleich entstehende Idee des öffentlichen Glaubens, die begrifflich erstmals Anfang des 18. Jahrhunderts nachzuweisen,³⁸ im *Zedler* jedoch noch nicht enthalten ist, erscheint kennzeichnend, dass in ihm die *auctoritas publica* und die Glaubwürdigkeit des Notars bzw. die Beweiskraft des von ihm angefertigten Schriftstücks zusammenfließen. Letztere sind nun begrifflich von der herrscherlichen bzw. staatlichen Legitimation des Urkundenschreibers nicht mehr zu trennen. Mit der Durchsetzung des öffentlichen Glaubens verlor der Begriff der (öffentlichen) Autorität an Bedeutung und wurde zur Charakterisierung von Notar und Notariatsinstrument kaum mehr verwendet. Sehr deutlich wird der Übergang in einem frühen Nachweis, und zwar in der unter dem preußischen König Friedrich dem Großen (1740-1786) geschaffenen Prozessordnung, dem *Corpus Iuris Fridericianum*, vom 26. April 1781:

Die zum Beweise zu inducirende Urkunden sind entweder Documenta publica oder privata. Documenta publica werden nur diejenigen genannt, welchen eine vorzüglichere Glaubwürdigkeit nun deswillen gebuehret, weil deren Aussteller dazu authorisirt worden, den von ihnen oder in ihrem Beyseyn vollzogenen Urkunden einen oeffentlichen Glauben, (fidem publicam) beyzulegen. Wohingegen gegen alle uebrige Urkunden als Documenta privata zu betrachten sind.³⁹

³⁶ W. TRUSEN, "Das Notariat und die Anfänge der rechtlichen Urkundenlehre in Deutschland", in: *25 Jahre Bundesnotarkammer 1961-1986: Sonderheft der Deutschen Notar-Zeitschrift* (München, 1986), S. 13*-23*, hier S. 18*.

³⁷ *Nouveau traité de diplomatique: Par deux Religieux Bénédictins de la Congrégation de S. Maur*, 6 (Paris, 1765), S. 349: "Par la 12e définition, le titre authentique est celui qui est muni de l'autorité publique & de toutes ses formes". In deutscher Übersetzung: *Neues Lehrgebäude der Diplomatie, welches in Frankreich von einigen Benedictinern von der Congregation des heiligen Mauri ausgeführt worden: Aus dem Französischen übersetzt: Neunter und letzter Theil* (Erfurt, 1769), S. 485: "Laut der 12. Erklärung ist eine beglaubigte Urkunde diejenige, welche mit öffentlichem Ansehen und allen ihren Formeln versehen ist".

³⁸ Der erste mir bekannte Beleg für den Begriff des öffentlichen Glaubens stammt aus dem Jahre 1702. In der Schrift "Die Neu-Eroeffnete Teutsche Notariat-Stube" fragt Heinrich Pohlmann, was "denn endlich die Krafft und wuerckung eines Rechtfertigen Notariat-Urkundes" sei und gibt die Antwort: "Daß ihm oeffentlicher und voelliger Glaube ohne einigen andern Beyfall zugestellet wird" (*Die Neu-Eroeffnete Teutsche Notariat-Stube. Worinnen Das Nothwendigste so ein Teutscher Notarius wissen soll / in kurzen Fragen / Vorgestelllet. von Polandern* (Magdeburg und Zerbst, 1702), Art. 297, S. 93).

³⁹ *Corpus Iuris Fridericianum* (Berlin, 1781), *Erstes Buch: Von der Prozessordnung, Vierter Theil: Von den Gesetzen, welche die Prozeßordnung genauer bestimmen, Sechster Titel:*

IV.

Taucht der Begriff des öffentlichen Glaubens im 18. und beginnenden 19. Jahrhundert nur vereinzelt und nur als Synonym für die urkundliche Beweiskraft auf⁴⁰ – der erste mir bekannte Beleg für den öffentlichen Glaubens des Notars stammt aus dem Jahr 1799⁴¹ – verdichtet sich sein Gebrauch in der Mitte des 19. Jahrhunderts.⁴² Intensiv mit dem Begriff der *fides publica* setzt sich

Von Aufnehmung des Beweises (ad Part. I Tit. 10), § 38, S. 73-74. In dieser Prozessordnung wurde das freiberufliche Notariat abgeschafft und seine Aufgaben Justizkommissaren, d. h. Staatsbeamten, übertragen. Cf. K. STERN, "Von der Kaiserlichen Notariatsordnung zum Grundgesetz – das Notariat im deutschen Verfassungsrecht", in: ID., *Im Dienst von Recht, Staat und Wissenschaft: Ausgewählte Reden*, ed. P.J. TETTINGER und M. SACHS (Köln u.a., 2002), S. 703-720, hier S. 705.

⁴⁰ Dies trifft insbesondere auf die partikuläre Gesetzgebung zu. Cf. etwa OESTERLEY, *Das deutsche Notariat*, 2, S. 728 n. 14 [Hamburg. Not.-Ord. von 1815 § 14: "Wenn ein Falsum irgend einer Art in Betreff der Materie bewiesen wird, so hat die Acte keinen öffentlichen Glauben mehr"].

⁴¹ *Coelner Reichsabschied von 1512 oder Kaisers Maximilian des Ersten Ordnung der Notarien. Nach dem Gerstlacherschen Texte mit einer historischen und juristischen Einleitung und erläuternden Anmerkungen versehen*, ed. J.M. STARK (Frankfurt am Main, 1799), S. 22: "Ein Notar ist eine mit einem oeffentlichen Amte versehene Person, vermoege dessen sie ueber rechtliche Handlungen glaubwuerdige oeffentliche Urkunden verfertigen kann. Ein Notar ist also eine oeffentliche Person; d. h. alle seine Handlungen, welche er vermoege seines Amts nach gesetzlicher Vorschrift verrichtet, haben oeffentlichen Glauben".

⁴² Als ein Beispiel dafür, dass der Begriff des öffentlichen Glaubens nicht nur in die deutsche Sprache eindrang, sei ein Kommentar zu der französischen Notariatsordnung vom 16. März 1803 (25. Ventôse XI) angeführt. Erörtert wird an der zitierten Stelle die Bedeutung von "foi" in Art. 19, der festlegte, dass alle Notariatsurkunden vor Gericht Glauben haben sollten. M.L. GAGNERAUX, *Commentaire de la loi du 25 ventôse an XI contenant organisation du notariat* 1 (Paris, 1834), S. 289: "Sect. II. – Des actes, de leur forme; des minutes, grosses, expéditions et répertoires. Art. 19. Tous actes notariés feront foi en justice, et seront exécutoires dans toute l'étendue du royaume ...". Hierzu schreibt Gagneraux, S. 290: "§ 1^{er}. – Foi due aux actes considérés comme instrumens des conventions ou comme preuves matérielles de certains faits. ... 3. Tous actes notariés font foi en justice. L'authenticité des actes a été établie pour prévenir les contestations qui pourraient s'élever sur la preuve des faits et des conventions; car, naturellement, nulle écriture ne fait foi par elle-même; personne n'est obligé d'y avoir confiance, de croire que celui dont elle porte le nom en est véritablement l'auteur. Cependant l'harmonie de la société repose en grande partie sur la foi et le témoignage des écrits: or, ne serait-ce pas en quelque sorte renoncer aux avantages qui en résultent, que d'être sans cesse obligé de vérifier les monumens de ce qui se passe de plus important parmi les hommes? De là, l'authenticité des actes notariés. La loi institue des officiers qu'elle revêt d'un caractère public, et dont la signature est supposée être connue de tous. Cette signature est alors un témoignage qui constate que les parties ont véritablement apposé la leur, et que les conventions contenues dans l'acte ont été réellement l'objet d'une stipulation". S. 291: "... 5. Les originaux des actes notariés, soit retenus en minute, soit délivrés en brevet, font pleine foi. C'est à eux surtout que s'applique l'axiome

Ferdinand Oesterley in seinem großen, 1842 erschienenen zweibändigen Werk zum deutschen Notariat auseinander.⁴³ Er schreibt, dass die Notwendigkeit der Förderung von Rechtssicherheit die Gesetzgebung veranlasst habe, für die Einrichtung von "Staats-Anstalten" zu sorgen, die den Untertanen die Möglichkeit gäben, öffentliche Urkunden zu erhalten. Diese Möglichkeit werde dadurch vermittelt, dass der Staat eigenen Behörden oder besonders autorisierten Personen das Recht verliehen habe, Urkunden mit öffentlichem Glauben für andere auszustellen, "und ihnen zugleich die Pflicht auferlegte, unter bestimmten Voraussetzungen, für Diejenigen solche Urkunden zu verfertigen, welche deren bedurften".⁴⁴ Nach seiner Auffassung besaßen nicht nur die Schriftstücke öffentlichen Glauben, sondern auch deren jeweilige Aussteller. Die Ableitung des öffentlichen Glaubens letzterer stellt für ihn jedoch ein nur schwer zu lösendes Problem dar. "Man könnte sagen", so hält er fest,

dem Regenten als solchen wohne der Natur der Sache nach und selbst in Ermangelung betreffender specieller positiver Gesetze die größte Glaubwürdigkeit bei, daher hätten auch die von ihm ausgestellten Urkunden unter allen Umständen öffentlichen Glauben; die Ausübung dieses ihm inwohnenden Rechts der höchsten Glaubwürdigkeit verleihe er den Notaren, welche in seinem Auftrage Urkunden mit öffentlichem Glauben ausstellten, mithin den inneren Character ihres Amtes unmittelbar von einer dem Regenten als solchen inhärirenden Eigenschaft ableiten.

Doch hält er noch eine zweite Überlegung für erwähnenswert: "Auf der andern Seite", fährt er fort,

könnte man von der Voraussetzung ausgehen, daß dem Regenten als solchem ursprünglich keine allgemeine fides publica inwohne, welche vielmehr überhaupt erst durch das positive Recht hervorgerufen sei; daß der Souverain aber für befugt zu halten sein würde, theils gesetzlich festzustellen, daß unter bestimmten Voraus-

*scriptura est criterium veritatis. La foi qui leur est due ne peut être détruite que par l'inscription de faux (art. 1319 C. civ.) Ainsi on peut pas être admis à prouver que les parties dénommées dans l'acte n'y ont pas réellement figuré, que les signatures ne sont pas celles des parties ou des témoins, que l'acte a été passé en d'autres temps ou d'autres lieux que ceux qui y sont mentionnés, etc., etc. Tout ce qui tient à la vérité de l'acte est sous la garantie de la foi publique [Hervorhebung P.S.]". Cf. W. SCHUBERT, "200 Jahre französisches Notariat – Die französische Notariatsordnung (Ventôse-Gesetz) v. 16.3.1803 und ihre Bedeutung für die Entwicklung des Notariats in Deutschland", *Deutsche Notar-Zeitschrift* 2003, S. 181-200.*

⁴³ OESTERLEY, *Das deutsche Notariat* 1 und 2.

⁴⁴ *Ibid.*, 2, S. 9-10.

setzungen gewisse Urkunden einen höhern Grad von Beweiskraft haben sollten, als andere, theils einzelnen Personen die Befugnis zu verleihen, solche Urkunden aufzunehmen.

Da Oesterley sich in dem Dilemma befindet, dass, wie er hervorhebt, “gemeinrechtlich ausdrücklich nirgends ausgesprochen” sei, welche “von diesen Ansichten im bestehenden Recht begründet sei”, sucht er in klassischer Vorgehensweise nach Argumenten für beide. Er geht zunächst in die Vergangenheit und führt an, dass nicht in Abrede zu stellen sei, dass

die Urkunden der Fürsten von jeher öffentlichen Glauben hatten, indessen auch nicht unbedingt, sondern nur wenn sie die Zeichen der Authenticität an sich trugen. ... Der letzte Grund dieser höhern Glaubwürdigkeit ist aber nicht etwa vom Kaiser auf die vorhin angegebene Weise abzuleiten, sondern darin zu suchen, daß das positive Recht den erweislich von ihnen ausgestellten Urkunden öffentlichen Glauben beilegte, denn nicht nur die Urkunden des Kaisers, sondern auch die anderer Fürsten, waren öffentliche Documente, ohne daß Spuren einer Verleihung der kaiserlichen fides publica auf uns gekommen wären.

Dann richtet er den Blick auf seine eigene Zeit und konstatiert, dass nach “der Natur der jetzigen Souverainetät” allerdings nicht zu bezweifeln sei,

daß die vom Regenten als solchen ausgestellten Urkunden öffentlichen Glauben haben, und es hat dies nicht in Bestimmungen specieller Gesetze seinen Grund. Auch ist an sich nicht zu bezweifeln, daß der Regent befugt sein würde, die ihm inwohnende fides publica andern zu verleihen.

Dennoch tendiert er zu der zweiten von ihm formulierten Überlegung, die eine diesem innewohnende *fides publica* negiert, was er mit der geschichtlichen Entwicklung des Notariats begründet. Denn die Ernennung der Notare sei nie so geschehen,

daß der Ernennende die ihm inwohnende fides publica einem Andern mit der Bestimmung verlieh, sie zum Besten des Publicums auszuüben, und daß ein solcher dadurch Notar geworden wäre; sondern so, daß ihm durch eine *lex specialis* das Notariat übertragen wurde und er dadurch *fidem publicam* erhielt; also nicht weil er diese hatte, war er Notar, sondern weil er Notar war, hatte er öffentlichen Glauben.

Das beste Argument in diese Richtung sind für Oesterley die Befugnisse der Pfalzgrafen. Die "Meisten von ihnen", betont er,

namentlich die, welche die kleinere Comititive besaßen, hatten als solche gar keine fides publica, waren mithin ganz außer Stande, sie unmittelbar zu verleihen. Berechtigt hingegen waren sie, Notare zu ernennen, und nach den über das Notariat geltenden Gesetzen hatten von ihnen verfaßte Urkunden öffentlichen Glauben. Das Notariat ist gemeinrechtlich ein genau begrenztes, rein positives Institut, welches durch die einzelnen Notare zur Wirksamkeit gebracht wird; der Grund ihrer amtlichen Thätigkeit beruht mithin theils auf der ihre Ernennung aussprechenden lex specialis, theils auf den über die Art und Weise, wie das Amt auszuüben ist, erlassenen Notariats-Gesetzen.⁴⁵

Bei Oesterley wird die ganze bedauernswerte Situation ersichtlich, die sich daraus ergibt, ein Phänomen historisch erklären zu wollen, das historisch nicht existent war. Ferner kam hinzu, dass der Kaiser seit dem Ende des Alten Reiches als Instanz, der traditionell neben dem Papst die Notarernennung zustand, fehlte und diese Lücke nun durch die Staatsoberhäupter des Deutschen Bundes geschlossen wurde, was für Oesterley juristisch nur schwer zu begründen war. Er band also den öffentlichen Glauben an das Amt und die notwendigen Bedingungen seiner Erlangung und Ausübung.

Oesterleys Einfluss auf die weitere Forschung ist kaum zu unterschätzen. Über ihn drang der noch junge Begriff des öffentlichen Glaubens⁴⁶ in die zeitgenössische rechtswissenschaftliche ebenso wie in die historische Betrachtung des Notariats. Als wichtige Beispiele seien *Das System des ordentlichen Civil-*

⁴⁵ OESTERLEY, *Das deutsche Notariat*, 2, S. 153-155.

⁴⁶ In dem Werk *De re diplomatica* des französischen Benediktiners Jean Mabillon, das im Jahr 1681 im Druck vorlag und den Grundstein für die Wissenschaft der Diplomatik legte, wird er ebenso wenig verwendet wie in den deutschen Arbeiten des 18. und auch noch des 19. Jahrhunderts. Im Allgemeinen sprechen die Autoren, sofern neben den äußeren und inneren Merkmalen der Urkunde auf die Beweiskraft eingegangen wird, von der Glaubwürdigkeit der Dokumente. Sie besaßen, so lauten andere Formulierungen, allen bzw. vollen Glauben. J. MABILLON, *De re diplomatca libri vi* (Paris, 1709²). Cf. ferner J.F. JOACHIM, *Einleitung zur teutschen Diplomatik* (Halle im Magdeburgischen, 1785³; erste Auflage: 1748); *Practische Anweisung zur Diplomatik und zu einer guten Einrichtung der Archive. Aus dem Französischen der Herren Le Moine und Batteney* (Nürnberg, 1776); G. GRUBER, *Lehrsystem einer allgemeinen Diplomatik vorzüglich für Oesterreich und Deutschland in zween Theile, einen theoretischen und einen praktischen, zusammengefaßt, und mit noethigen Kupfern versehen 1: Theoretischer Teil/2: Praktischer Theil* (Wien, 1783); F.A. KRAUSE, *Die Diplomatik und Sphragistik in ihren Grundlinien zum Gebrauche bei Vorlesungen* (Quedlinburg und Leipzig, 1824); F. LEIST, *Urkundenlehre: Katechismus der Diplomatik, Paläographie, Chronologie und Sphragistik* (Leipzig, 1882).

prozesses von Georg Wilhelm Wetzell aus dem Jahr 1861⁴⁷ sowie das *Handbuch der Urkundenlehre für Deutschland und Italien* von Harry Bresslau,⁴⁸ das im November 1888 und im Januar 1889 in zwei Lieferungen erschien,⁴⁹ erwähnt. Beide Autoren reflektieren den mittlerweile etablierten Begriff nicht. Sie gehen selbstverständlich davon aus, dass das mittelalterliche italienische Notariat *fides publica* besaß, die auf die Investitur durch Kaiser oder Papst zurückzuführen sei und die es auf die von ihm angefertigten Urkunden übertragen habe. Spätestens seit ihren Werken gilt die *fides publica* als Fachterminus nicht nur für die Beweiskraft der Urkunden, sondern auch für die diese begründende Eigenschaft des Notars.⁵⁰ Kritische Stimmen wie die von Karl

⁴⁷ Mir war allein die dritte Auflage zugänglich. G. W. WETZELL, *System des ordentlichen Civilprocesses* (Leipzig, 1878³), § 24, S. 235: "Uebrigens hat sich neben der Thätigkeit der Notare die vom römischen und deutschen Recht theils vorgeschriebene, theils gestattete gerichtliche Aufnahme von Privatgeschäften erhalten, und so weit dabei bloß die Sicherung des Beweises in Frage steht, ist particularrechtlich meist sogar schon den Gerichtsschreibern publica fides beigelegt worden"; § 36, S. 427: "Der Gerichtsschreiber (actuarius, secretarius, protonotarius) kommt als ein mit öffentlichem Glauben versehener und zur Aufzeichnung der gerichtlichen Vorgänge ex officio verpflichteter Beamter in der älteren deutschen Gerichtsverfassung nicht vor"; § 36, S. 428-429: "Nur in dem longobardischen Oberitalien fand insofern etwas Anderes statt, als dort die für den gerichtlichen Geschäftsbetrieb erforderlichen Notare nicht bloß öffentlich angestellt, sondern des öffentlichen Glaubens wegen auch beeidigt, mithin die Gerichts-urkunden von einem öffentlichen, beeidigten Notar geschrieben wurden. Und wie es scheint, knüpfte eine Decretale des Papstes Innocenz III. (a. 1216) hieran an, wenn sie vorschrieb, daß im ordentlichen wie im außerordentlichen Prozeß alle gerichtlichen Acte von einer öffentlichen Person oder in deren Ermangelung von zwei glaubwürdigen Männern getreulich und in entsprechender Ordnung aufgezeichnet werden sollten, damit wenn über das Verfahren des Richters ... Streit entstände, die Wahrheit durch das aufgenommene Protocoll bekundet werde Unter der zuzuziehenden öffentlichen Person war mit Rücksicht auf die erforderliche publica fides ohne Zweifel ein Notar verstanden, und es sollte also die glaubwürdige, gleichzeitige und zusammenhängende Aufzeichnung der Verhandlungen geradezu die Gültigkeit des Verfahrens bedingen, und die maaßgebende Grundlage für das Urtheil in der unteren und in der höheren Instanz schaffen".

⁴⁸ H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien* 1 (Berlin, 1912²), S. 655: "Das Ende der Entwicklung ist, daß die von einem öffentlichen Notar ausgefertigte formell echte Urkunde ein *instrumentum publicum*, d. h. ein mit *publica fides* ausgestattetes Aktenstück wird, das die in ihm aus amtlicher Wahrnehmung bezeugten Tatsachen unbedingt beweist"; S. 660: "... die Notare, deren *publica fides* den Inhalt der von ihnen ausgestellten Urkunden verbürgen soll, ...".

⁴⁹ P. RÜCK, "Erinnerung an Harry Bresslau (1848-1926) zum 150. Geburtstag", in: *Fachgebiet Historische Hilfswissenschaften. Ausgewählte Aufsätze zum 65. Geburtstag von Peter Rück*, ed. E. EISENLOHR und P. WORM (Marburg an der Lahn, 2000: *Elementa Diplomatica* 9), S. 245-283, hier S. 250.

⁵⁰ Cf. u.a. J. MERKEL, *Das Notariat und die willkürliche Gerichtsbarkeit nach gemeindeutschen und königlich-sächsischen Rechten, dem österreichischen Gesetze über das gericht-*

Dick, der im Jahr 1871 zwar nicht die *fides publica* der öffentlichen Urkunden, jedoch die des Notariats nachdrücklich bestritt, verhallten ungehört.⁵¹ Der öffentliche Glaube der Urkundsperson gelangte in die *Civilprozeßordnung* des Deutschen Reiches von 1877.⁵² In seinem Kommentar des § 380 Abs. 1 CPO

liche Verfahren in Rechtsangelegenheiten außer Streitsachen, den preußischen Gerichts-, Deposit- und Hypothekenordnungen und den neuesten deutschen Notariatsordnungen mit den einschlagenden Lehren der Diplomatie und Heurematik (Leipzig, 1860), S. 18; R. SCHRÖDER, *Lehrbuch der deutschen Rechtsgeschichte* (Leipzig, 1902⁴), § 59, S. 701; O. REDLICH, *Die Privaturkunden des Mittelalters* (München und Berlin, 1911; Neudruck Darmstadt, 1967; *Handbuch der mittelalterlichen und neueren Geschichte* 4.3), S. 212: "Die neue Doktrin verleiht also dem beobachteten Zug zur reinen Beweisurkunde entscheidende Verstärkung und eine theoretische Begründung; sie erhöht den Wert der Notariatsurkunde im allgemeinen, indem sie ihr öffentliche Glaubwürdigkeit verschafft"; R. HEUBERGER, *Allgemeine Urkundenlehre für Deutschland und Italien* (Leipzig und Berlin, 1921: *Grundriss der Geschichtswissenschaft: Zur Einführung in das Studium der deutschen Geschichte des Mittelalters und der Neuzeit* 1.2a), S. 30, 40, 51; CONRAD, "Die geschichtlichen Grundlagen", S. 11; W. VOGEL, *Gemeinrechtliches Notariat*, Diss. Iur. (Bonn, 1969), S. 8-11; SCHULER, *Geschichte des südwestdeutschen Notariats*, S. 24: "Den entscheidenden und abschließenden Schritt zur Entwicklung eines öffentlichen Notariats erfuhr das italienische Notariat, als es im 11. Jahrhundert die 'fides publica' für die von ihm ausgestellten Urkunden erlangte, d. h. der notarielle Akt begründete nunmehr aus sich selbst heraus für und gegen jedermann einen vollständigen Beweis"; S. 206: "Ihr Beweiswert [der Notariatsurkunde, P.S.] beruht nicht auf dem Zeugnis der angeführten Zeugen, sondern auf der *fides publica* des ausstellenden Notars, d. h. das Notariatsinstrument als öffentlich-rechtliche Urkunde trug den Beweis der Echtheit in sich selbst und begründete, ohne weiteres Zeugnis oder Beglaubigungsmittel, den vollen Beweis der darin beurkundeten Tatsachen für sich und gegen jedermann"; MEYER, *Felix et inclitus notarius*, S. 7-8, 66 und öfter. Auch in Italien besitzt der Begriff der *fides publica* eine lange Forschungstradition. Verwiesen sei lediglich auf das grundlegende Werk von C. PAOLI, *Programma scolastico di paleografia latina e di diplomatica*, 3, *Diplomatica* (Firenze, 1898), S. 6: "... e questa parola [rogatarius, P.S.] assumo qui per indicare in maniera generalissima l'ufficio dello scrivere per mandato di private o pubbliche persone, in buona e autentica forma e con pubblica fede"; S. 40: "Ma nel diritto italiano nel medio evo, dove il documento in generale ha forma di carta positiva, e il notariato ha fede pubblica ...".

⁵¹ DICK, *Das gemeinrechtliche Deutsche Notariat*, § 28, S. 46: "Nicht der auch noch so angesehene Notar, sondern nur die von ihm unter Beobachtung der gesetzlichen Formalitäten ausgestellte Urkunde genießt öffentlichen Glauben. Die Formalitäten müssen aber in der Urkunde erwähnt sein, denn nirgendwo ist gesagt, daß sie vermuthet werden dürfen".

⁵² *Civilprozeßordnung und Einführungsgesetz, nebst einer Nachweisung der auf die einzelnen Bestimmungen bezüglichen Stellen der Materialien*, in: *Entstehung und Quellen der Civilprozeßordnung von 1877: Zweiter Halbband*, ed. W. SCHUBERT (Frankfurt am Main, 1987: *Studien zur Europäischen Rechtsgeschichte* 34), S. 903-1032, Zweites Buch: Verfahren in erster Instanz. Erster Abschnitt: Verfahren vor den Landgerichten. Neunter Titel: Von dem Beweis durch Urkunden, § 380, S. 957: "Urkunden, welche von einer öffentlichen Behörde innerhalb der Grenzen ihrer Amtsbefugnisse oder von einer mit öffentlichem Glauben versehenen Person innerhalb des ihr zugewiesenen Geschäftskreises in der vorgeschriebenen Form aufgenommen sind (öffentliche Urkunden), begründen, wenn sie über eine von der Behörde oder der Urkunds-

gab Lothar Seuffert dem öffentlichen Glauben des Notars durch die Angabe von Wetzell Rückhalt.⁵³ Der öffentliche Glaube der Urkunden hingegen wurde

person abgegebene Erklärung errichtet sind, vollen Beweis des durch die Behörde oder die Urkundsperson beurkundeten Vorganges”.

⁵³ L. SEUFFERT, *Kommentar zur Civilprozeßordnung für das Deutsche Reich und zum Einführungsgesetze vom 30. Januar 1877* (München, 1895⁷), zu § 380, p. 511: “Welche Personen, ohne ‘Behörden’ zu sein, als mit öffentlichem Glauben versehene Personen (Urkundspersonen) zu erachten sind, bemißt sich ebenfalls nach den Reichs- und Landesgesetzen. Nach dem gegenwärtigen Stande der Reichsgesetzgebung kommt die Eigenschaft einer Urkundsperson nach Reichsrecht den Reichskonsuln (BG v. 8. Nov. 1867 §§ 16, 17), die übrigens auch die Behördenqualität haben, den Briefträgern, Postboten (RPostgesetz v. 28. Okt. 1871, § 47) und den Gerichtsvollziehern bezüglich der nach den Reichsgesetzen ihnen zugewiesenen Beurkundungen zu. Nach Landesrecht sind Urkundspersonen mit publica fides insbesondere die Notare (s. Wetzell Syst. § 24 N. 60). Für Preußen. Ges., enthaltend Bestimmungen über das Notariat, v. 8. März 1880 (GS. S. 177ff.), das zu der preuß. Not. Ord. v. 11. Juli 1845, der rheinischen Not. Ord. v. 25. April 1822 und der hann. Not. Ord. v. 18. Sept. 1853 ergänzend und abändernd hinzutritt. Für Bayern: Not. Ges. v. 10. Nov. 1861. Für Württemberg: Not. Ord. v. 1808, Not. Ges. v. 14. Juni 1843.” Die genannten Notariatsordnungen einzelner Länder stützen nicht den Begriff des öffentlichen Glaubens, sondern verweisen auf Bestimmungen zur Institution des Notariats selbst. Folgende, von mir eingesehene Notariatsordnungen verwenden den Begriff des öffentlichen Glaubens nicht: *Notariats-Ordnung für das Großherzogtum Baden* (Karlsruhe, 1806); *Königlich Wuerttembergische Notariats Ordnung 1808* (Stuttgart, 1808); *Notariatsordnung der freien Hansestadt Bremen* (Bremen, 1820); *Die Notariats-Ordnung für das Königreich Hannover vom 18. September 1853. Mit angehängtem Gebühren- und Stempel-Tarife*. Von Neuem bearbeitet und herausgegeben von C. H. EBHARDT (Hannover, 1859)]; *Gesetze betreffend das Notariat in der Rheinprovinz mit Anmerkungen, Gebührentabellen und Sach-Register versehen von O. RUDORFF* (Düsseldorf, 1881). Jedoch zog § 380 Abs. 1 CPO eine Überarbeitung etwa der sächsischen Notariatsordnung nach sich. *Die königlich sächsische Notariatsordnung vom 5. September 1892 nebst der Kostenordnung für Notare vom 6. September 1892 und der Ausführungsverordnung vom 7. September 1892 erläutert von V. OTTO* (Leipzig, 1893), S. 16: “Die Notariatsordnung vom 3. Juni 1859 legt den Urkunden der Notare in § 3 die Kraft öffentlicher bei und spricht überall von dem ‘Amt’ und den ‘Amtshandlungen’ der Notare, besagt aber nicht ausdrücklich, daß diese öffentliche Beamte seien. Um den Notar als eine mit öffentlichem Glauben versehene Person im Sinne des § 380 Absatz 1 der Civilprozeßordnung unzweideutig zu kennzeichnen, wird sich nach dem Vorgange anderer Notariatsordnungen (Rheinische Artikel 1, Bayerische Artikel 1 Absatz 2) empfehlen, den öffentlichen Charakter des Notariatsamtes im Gesetz auszusprechen. Dadurch ist zugleich die Anwendung der in den Gesetzen zerstreut sich findenden, auf öffentliche Beamte bezüglichen Bestimmungen auf die Notare sichergestellt ...”. S. 17: “2. An die Öffentlichkeit des Amtes knüpft sich die durch Gegenbeweis entkräftbare Vermuthung an, daß der Notar bei dem einzelnen Akte sowohl innerhalb der Grenzen seiner Amtsbefugnisse als auch unter Beobachtung aller einschlagenden Formvorschriften gehandelt habe, praesumptio legalitatis. Vgl. Mot. S. 30 zu § 12. Minder deutliche Ausdrücke oder Wendungen in einer Notariatsurkunde sind deshalb in dem Sinne zu verstehen, der mit Wahrung der gesetzlich vorgeschriebenen Förmlichkeiten vereinbar ist, dafern nicht dargethan wird, daß die Form in Wahrheit nicht beobachtet worden sei. Die gleiche Vermuthung steht auch den Amtshandlungen der in andern deutschen Bundesstaaten thätigen Notare zur Seite. In einzelnen

als Begriff auf Reichsebene nicht normativ verankert, blieb aber fester Bestandteil des juristischen Vokabulars.

V.

In der zweiten Hälfte des 19. Jahrhunderts fand eine Entwicklung ihren Abschluss, die unseren Blick auf das mittelalterliche Urkundenwesen bis heute prägt. Wir arbeiten mit einem Konstrukt, das auf das zeitgenössische öffentliche Notariat und seine Urkunde angewandt und auf die italienischen Anfänge im 12./13. Jahrhundert projiziert wurde. Doch ist die Differenz zwischen der mittelalterlichen *fides* und der neuzeitlichen *fides publica* nicht letztlich nur eine begriffliche und damit marginal? Würden wir mit diesen Begriffen allein die Glaubwürdigkeit des Notars bzw. die Beweiskraft seiner Urkunden bezeichnen, müsste die Frage wahrscheinlich bejaht werden. Problematisch ist jedoch, dass der öffentliche Glaube nie ohne sein Fundament gedacht werden kann. Ein Verweis auf die *fides publica* enthält stets den Fingerzeig auf den Staat als ihren Garanten. In einzigartiger Weise hat sich Oesterley mit dem "Grund der Glaubwürdigkeit" der Notariatsurkunden beschäftigt. Er konstatiert:

Dieser liegt im Allgemeinen in dem Vertrauen, welches der Staat in die Person des amtlich thätig gewordenen Notars setzt und welches er durch dessen Anstellung, durch die ertheilte Autorisation, öffentliche Urkunden aufzunehmen, bekundet. Jenes Vertrauen selbst hat seinen Grund nicht nur in der vor der Anstellung des Notars erlangten Überzeugung, von der Rechtlichkeit seines Characters und von dem Besitze der erforderlichen Kenntnisse, sondern auch in seiner Beeidigung, sowie in den Vorschriften über die bei Aufnahme der Notariats-Instrumente zu beobachtenden Förmlichkeiten, und besonders denen, welche vorzugsweise Treue und Vollständigkeit der Beurkundung bezwecken, wohin namentlich gehört, daß der Notar nur das aus eigener Erfahrung und sinnlich Wahrgenommene beurkunden darf, ferner daß dies sofort und zur Zeit jener Wahrnehmung geschehen muß, und daß seine Concurrrenz unstatthaft ist, wo seine Wahrhaftigkeit mit seinem eigenen Vortheil in Widerspruch geräth. Jenes Vertrauen findet endlich einen Stützpunkt auf der einen Seite in der den Notaren zur Pflicht gemachten äußersten Diligenz, womit sie bei Ausübung ihres Amts zu Werke gehen müssen, und auf der andern Seite theils in der Furcht vor der Verantwortlichkeit und Strafe, welche sie

dieser Staaten giebt es zur Zeit überhaupt keine Notare. Wo aber solche bestehen, bekleiden sie auch wie in Sachsen ein öffentliches Amt. Die von ihnen errichteten Urkunden sind öffentliche und bedürfen nach dem Reichsgesetz vom 1. Mai 1878 keiner Legalisation".

trifft, wenn sie ungesetzlich und gewissenlos verfahren, theils in dem Gefühle ihrer Stellung als öffentlicher Beamten und in der Rücksicht auf das sie in gesetzte Vertrauen.⁵⁴

Deutlich wird, dass Oesterley dem “von dem Staate in den Notar gesetzten und durch die Anstellung ausgesprochenen Vertrauen”⁵⁵ eine außerordentliche Bedeutung zuspricht. In der weiteren Argumentation stellt er es sogar ausdrücklich über den Amtseid, der nach kanonischem Recht die Glaubwürdigkeit der Notariatsurkunden begründe.⁵⁶ Andere Autoren nehmen eine von Oesterley leicht abweichende Perspektive ein und betrachten lediglich das Vertrauen in den Staat,⁵⁷ das im 19. Jahrhundert ganz allgemein *fides publica* genannt wurde.⁵⁸

Zweifellos dürfen die neuzeitlichen Formen der Staatlichkeit nicht auf andere Epochen übertragen werden. Der Begriff der *fides publica* hat in der historischen Forschung jedoch genau dazu geführt und den Blick auf Entwicklungen versperrt, die im Mittelalter nicht endeten,⁵⁹ sondern ihren Ausgang nahmen. Der mittelalterliche Notar, dem die Forschung öffentlichen Glauben zuweist, wird zumeist ausschließlich in seiner, auf den Kaiser zurückzuführenden *auctoritas publica* gesehen. Der öffentliche Glaube, den die Urkunde angeblich besaß, war nach diesem Verständnis über den Notar an die Obrigkeit gebunden und unabhängig von weiteren denkbaren Einflussfaktoren. Diese

⁵⁴ OESTERLEY, *Das deutsche Notariat*, 2, S. 656-657.

⁵⁵ *Ibid.*, S. 659.

⁵⁶ *Ibid.*, S. 658 f.

⁵⁷ Cf. Anm. 50.

⁵⁸ *Das große Conversations-Lexicon für die gebildeten Stände, in Verbindung mit Staatsmännern, Gelehrten, Künstlern und Technikern 10: Fermate-Französische Rechtswissenschaft*, ed. J. MEYER (Hildburghausen et al., 1847), S. 204-205, fügte unter dem Stichwort “*fides publica*” dem öffentlichen Geleit das “öffentliche Zutrauen, welches dem Staate und seinen Institutionen geschenkt wird, oder doch geschenkt werden sollte” hinzu. Spätestens Ende des 19. Jahrhunderts wurde der Hinweis auf die öffentlichen Urkunden ergänzt. *Meyers Konversations-Lexikon* (Leipzig und Wien, 1885-1892⁴), 6, *Faidit-Gehilfe*, S. 247 [http://susi.e-technik.uni-ulm.de:8080/Meyers2/seite/werk/meyers/band/6/seite/0247/meyers_b6_s0247.html]: “F. publica ist das (...) das öffentliche Zutrauen, welches dem Staat und seinen Instituten, öffentlichen Urkunden etc. geschenkt werden soll.” Der Eintrag “*fides publica*” verschwand in der ersten Hälfte des 20. Jahrhunderts aus den deutschen Lexika. Er wurde abgelöst von dem Stichwort “Öffentlicher Glaube”, in dem ausschließlich auf das Grundbuch Bezug genommen wurde und wird. Cf. zur Bedeutung von Vertrauen im 19. Jahrhundert U. FREVERT, “Vertrauen – eine historische Spurensuche”, in: *Vertrauen. Historische Annäherungen*, ed. U. FREVERT (Göttingen, 2003), S. 7-66, hier S. 24-28.

⁵⁹ Cf. dagegen die Ansicht Bresslaus in Anm. 48.

Einschätzung lässt sich scheinbar unanfechtbar in den Quellen belegen.⁶⁰ Dennoch sollte man nur mit großer Vorsicht jenes Vertrauen in die kaiserliche Herrschaft unterstellen, das der anachronistisch gebrauchte Begriff des öffentlichen Glaubens impliziert. Darüber hinaus ist in der Betrachtung des kommunalen Italiens und anderer Regionen, in denen sich das Notariat gleichzeitig oder mit Verzögerung großflächig durchzusetzen begann, zu berücksichtigen, dass mit den Voraussetzungen für die Glaubwürdigkeit des Notariats und seiner Urkunden experimentiert wurde. Das Phänomen der Schriftlichkeit ist nicht zu verstehen, übersieht man etwa in den italienischen Kommunen des 12. und 13. Jahrhunderts die Beziehung zu den Staufern, den sozialen Status und den Stellenwert des persönlichen Rufs der tätigen Notare, ihre Kontrolle durch die entstehenden Zünfte, die von Ort zu Ort differierende Einflussnahme der Stadtgemeinde sowie die sich in den *publicationes* der Urkunden widerspiegelnde Einbettung des Rechtsakts in ein bestimmtes räumliches und soziales Umfeld.⁶¹ Da er das Prozesshafte dauerhaft versiegelt, verdeckt der Begriff des öffentlichen Glaubens hier mehr, als er erklärt. Nach dem "Grund der Glaubwürdigkeit" der Notariatsurkunden zu suchen, stellt ein reizvolles Ziel historischen Arbeitens dar. Es verspricht nicht zuletzt einen tiefen Einblick in das Werden des modernen Staates.

⁶⁰ Siehe oben zwischen Anm. 17 und 26.

⁶¹ Cf. SCHULTE, *Scripturae publicae creditur*, mit weiterführender Literatur zu einzelnen wichtigen Studien zum italienischen Notariat, die die oben genannte Aspekte durchaus berücksichtigen, den Begriff der *fides publica* jedoch nicht problematisieren. Explizit genannt sei an dieser Stelle die wichtige Arbeit von M. MONTORZI, *Fides in rem publicam: Ambiguità e tecniche del diritto comune* (Napoli, 1984: *Storia e diritto: Studi* 12). In ihr verweist er auf den süditalienischen Juristen Roberto Maranta (1500-1571), der bereits im *Speculum aureum* (Venetiis, 1591), S. 6, *De actorum editione*, Nr. 15 mit Blick auf das Königreich Sizilien von der *fides publica* der Urkunden im Gerichtsverfahren spricht. Montorzi zitiert diese Stelle als Beleg für eine neue Qualität des Notariats: "Non bastava più, come s'era richiesto un tempo nella classica dottrina trecentesca, il *mandatum iudicis*, o la semplice fama di notaio, per essere considerato tale: occorreva bensì che fosse instaurato un rapporto di tipo funzionale con l'ordinamento regio. E la *fides publica* che se ne riscuoteva conseguentemente era il frutto non tanto della pubblica stima ricossa dal soggetto, quanto la conseguenza – indiretta e implicita – del pubblico ossequio all'autorità del Principe. *Ibid.*, S. 104f. Cf. zum Thema ferner ID., "Il notaio di tribunale come pubblico funzionario: un primo quadro di problemi, e qualche spunto analitico", in: *Il notariato nella civiltà toscana. Atti di un convegno (Maggio 1981)* (Roma, 1985: *Studi storici sul notariato italiano* 8), S. 5-59, hier S. 30-35.

Forgery and Trust¹

MARCO MOSTERT

In diplomatic, those charters are called forgeries which are wilfully presented by their makers (be they their authors or scribes) as something different from what they really are.² It is not just a question of charters containing statements which are untrue: their makers have either knowingly inserted untrue statements (a *faux intellectuel*) or the charter as a whole is a forgery (a *faux matériel*). When we are dealing with a forgery, we are confronted with a lie (*mendacium*) in the sense St. Augustine gave the word: an untrue statement made with the intention to deceive.³ Forgery is deceit.

Because charters, in the view of students of diplomatic, are meant to provide evidence for that which is expressed in them, clearly sometimes, if only

¹ This paper is a revision of my “Schrift, Wahrheit und Betrug im frühen und hohen Mittelalter”, in: *Schriftkultur zwischen Donau und Adria bis zum 13. Jahrhundert*, ed. R. HÄRTEL, G. HÖDL and C. SCALON (Klagenfurt, 2007: *Schriftenreihe der Akademie Friesach*) (in preparation).

² P. HERDE and A. GAWLIK, “Fälschungen: A: Lateinischer Westen”, in: *Lexikon des Mittelalters* 4.2 (München and Zürich, 1987), col. 246-247, referring to the classic manuals, as e.g. H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien*, 2 vols. with 1 ‘Registerband’ (Berlin, 1912-19312), 1, pp. 7 ff. and 87-88. See also O. GUYOTJEANNIN, J. PYCKE and B.-M. TOCK, *Diplomatique médiévale* (Turnhout, 1993: *L’atelier du médiéviste* 2), pp. 17-18, 367-370.

³ Cf. Aurelius AUGUSTINUS, *Contra Mendacium* and *De Mendacio*, ed. I. ZYCKA (Wien, 1900: *Corpus Scriptorum Ecclesiasticorum Latinorum* 41). Cf. T. MARSCHLER, “Täuschung durch Christus? Die biblische Emmausperikope als Herausforderung mittelalterlicher Offenbarungstheologie”, in: *Homo mendax: Lüge als kulturelles Phänomen im Mittelalter*, ed. U. ERNST (Berlin, 2004: *Das Mittelalter: Perspektiven mediävistischer Forschung* 9.2), pp. 20-36, esp. pp. 20-23. See also U. ERNST, “*Homo mendax*: Lüge als kulturelles Phänomen im Mittelalter: Einleitung”, in: *Homo mendax*, pp. 3-11, and the “Auswahlbibliographie”, *ibid.*, pp. 12-19.

because of a lack of authentic charters, there may have been a temptation to fabricate charters. Thus, a real legal situation could be brought into conformity with a desired situation. Diplomatic has claimed that 50% or more of all charter texts dating from the early Middle Ages are either downright forgeries or are the result of tampering later on.⁴ In Poland, of the 71 preserved charters dating from before 1200 that were promulgated by inhabitants of the Polish lands, 30 are either suspect or are considered forgeries.⁵ In the county of Holland, all charters promulgated until 1254 have been considered forgeries.⁶ And in Anglo-Saxon England 17 of the 30 larger monastic establishments put up with large-scale fabrication of charters. According to Michael Clanchy, after the Norman Conquest forgery even seems to have been the norm.⁷ In 1986, at the congress on forgeries organised by the *Monumenta Germaniae Historica*, a historian of law could even claim that *all* medieval charters were forgeries, because legal practice did not require them to be made.⁸

How is this possible? Is it conceivable that everywhere in Europe legal documents were forged, and that nobody thought to object to a situation in which literates, most of them monks, consistently and shamelessly committed fraud, even when there were witnesses who might have objected to their practices? Maybe the answer is, that the diplomatists, even if they were not wrong in principle (because according to their definition these charters were indeed forgeries, produced fraudulently), misunderstood the nature of medieval forgery. To contemporaries, there can only have been isolated instances of deceit. As they accepted most of the 'forgeries', possibly we have to understand these texts different from the way diplomatists understand them.

⁴ HERDE and GAWLIK, "Fälschungen", col. 246, 249-250.

⁵ A. ADAMSKA, "From memory to written record in the periphery of medieval latinitas: The case of Poland in the eleventh and twelfth centuries", in: *Charters and the Use of the Written Word in Medieval Society*, ed. K. HEIDECKER (Turnhout, 2000: *Utrecht Studies in Medieval Literacy* 5), p. 87.

⁶ Cf. J. BURGERS and M. MOSTERT, "Oorkondenvervalsingen in Holland? De rehabilitatie van het 12de- en 13de-eeuwse oorkondenwezen", *Holland* 35 (2003), pp. 134-151, esp. p. 151. An enlarged version of this article was published in Polish as "O fałszerstwach dokumentów w średniowiecznej Holandii", *Roczniki Historyczne* 69 (2003), pp. 49-70.

⁷ M.T. CLANCHY, *From Memory to Written Record: England, 1066-1307*, 2nd edn. (Oxford and Cambridge, MA, 1993), p. 318.

⁸ This contribution was not published in *Fälschungen im Mittelalter. Internationaler Kongreß der Monumenta Germaniae Historica, München, 16.-19. September 1986* 3-4, *Diplomatische Fälschungen* 1-2 (Hannover, 1988: *Monumenta Germaniae Historica: Schriften* 33, 3-4).

The number of forgeries increases dramatically after c. 1100. Forgeries are known to have been produced before, certainly, but research by diplomatists has turned up far more instances in the twelfth century. Their research also suggests that the number of forgeries gradually decreases from the thirteenth century onwards.⁹ Does this decrease have something to do with the phenomenon of the exponential growth in charter production from the middle of the thirteenth century onwards, a phenomenon that can be observed everywhere in Europe? If so, is it possible to find a connection between the wave of forgeries in the twelfth century and long-term developments in pragmatic literacy? A definitive answer to these questions cannot be given here. These beginnings of a renewed assessment of medieval forgeries do not bring much that is new; nevertheless, maybe the history of communication can contribute something to the discussion of forgery among diplomatists.

A result of the study of medieval communication has been the realization that modern man is bound by a modern paradigm of the written and printed word, and that he tends to consider our views on literacy as universal, eternal, unchangeable truths that are applicable everywhere. The reason for this is, that we have gradually become readers. We read the world. Already in the Middle Ages, the Book of Nature has been interpreted as if reality were a Third Testament in which, as in the Old and New Testaments, God's work may be recognized.¹⁰ Medieval scholars explained history with the same instruments they used in interpreting Scripture.¹¹ For us, often reality is comprehensible only when it is reduced to a written text – or, rather, it is as a text that reality is grasped. We see complex images from left to right and from top to bottom. Psychologists have demonstrated how our eye considers visual images as if they were the pages of a book. Art historians have shown how, since Antiquity, artists who composed series of images (or parts of images) which were meant to tell a story, intended these images to be seen from left to right (and quite often also from top to bottom). Artists made these series of images legible.¹²

⁹ Cf., e.g. the *International Medieval Bibliography* (now to be consulted via: www.brepolis.net). The majority of articles included deals with the 'long' twelfth century.

¹⁰ E.R. CURTIUS, *Europäische Literatur und lateinisches Mittelalter* (Bern and München, 1948, 1978⁹), pp. 323-329.

¹¹ F.-J. SCHMALE, *Funktion und Formen mittelalterlicher Geschichtsschreibung: Eine Einführung* (Darmstadt, 1985), p. 51.

¹² Because J. BASCHET, J.-Cl. BONNE, M. PASTOUREAU and J.-Cl. SCHMITT, *Lire les images médiévales* (Turnhout: *L'atelier du médiéviste*) has not yet been published, cf. E. SEARS, "Reading Images", in: *Reading Medieval Images: The Art Historian and the Object*, ed. E. SEARS and T.K. THOMAS (s.l., 2002), pp. 1-7 and M. MOSTERT, "Reading images and texts:

For us, modern literates, the world has become a text. Sometimes we even have the impression that we disappear behind our written doubles. We identify people with their papers: ID cards and passports are proof of identity. Letters and books replace the persons who have written them. The person of the author seems reduced to the contents of his works. For us, readers, written texts may almost replace a living human being. The obvious authority with which we invest the written word can be explained. But even nowadays not all are as literate as we are – and in the Middle Ages there were far fewer people around who would have shared our views of the written word. Our notions of ‘writing’ cannot be put on a par with the notions of writing of those who are ‘less literate’ than we are. Consequently, it is possible to think that our understanding of certain written texts, as, for instance, ‘charters’ or ‘forgeries’, may be different from theirs too. Even notions such as ‘truth’ and ‘deceit’ may prove to be subject to change.

Words, Lies and Truths

When we wish to investigate the history of the written word and the development of literate mentalities, we have to deal simultaneously with ideas that have their origin in Antiquity, the Middle Ages and more recent times. Each of these periods knew the use of writing, and writing was known in one form or another to all men and women. In each of these periods, too, we encounter men and women whom we tend to call either ‘literate’ or ‘illiterate’. But this distinction is not very precise. It may be better to distinguish between the illiterate, semi-illiterate, semi-literate and literate.¹³ ‘Illiterates’ have no idea of what writing is, and do not know, for instance, that writing is language rendered visible; they do not understand that the content of a written text is transmitted through the eyes rather than through the ears.¹⁴ With the unbecoming expres-

Some preliminary observations instead of an introduction”, in: *Reading Images and Texts: Medieval Images and Texts as Forms of Communication*, ed. M. HAGEMAN and M. MOSTERT (Turnhout, 2005: *Utrecht Studies in Medieval Literacy* 8), pp. 1-7.

¹³ Cf. for a similar distinction between levels of literacy F.H. BÄUML, “Varieties and consequences of medieval literacy and illiteracy”, *Speculum* 55 (1980), pp. 237-265, at pp. 246-247 (on “quasi-literates”).

¹⁴ An elderly lady in the Netherlands, e.g., who, when she received a letter which she, being illiterate, could not read, asked an acquaintance to read it for her, but to keep her hands over her ears when she read out the letter, because she did not want her to know what the letter said. Cf. B. VAN MARIS, “De maan is wit: Analfabeet baseert zich vooral op het gezond verstand”, in:

sion ‘semi-illiterates’ are meant those who, although they cannot read or write themselves (and therefore are functionally illiterate) nevertheless know what writing is, and in which ways the written word differs from the spoken word. ‘Semi-literates’ are those who know how to read and write, but who are yet unaware of the subtleties of written communication. Their mentality is therefore in some respects close to that of the semi-illiterates. Finally, those who are ‘fully literate’ can manipulate the culture of writing. Because of their thorough understanding of the techniques of the written word they are able to decide autonomously whether to avail themselves of the possibilities offered by the culture of the written word.

These distinctions are, however, not absolute. It is possible to be fully literate in some fields of written culture and to be semi-literate in others. Twenty-first-century medievalists may know how to analyse and understand written texts from the classical, biblical, patristic and medieval traditions. They may also know to apply postmodernism, structuralism, and other notions such as that of the linguistic turn – or can give reasoned accounts for their decision not to use the opportunities offered by the schools of thought presenting them with these ideas. In this respect they are fully literate. Not many medievalists, however, would be able to understand the terms and conditions of use of the latest version of their preferred wordprocessor. When asked by the programme during installation, they will most probably accept these terms without reading them, and thereby prove themselves to be merely semi-literate in this field of contemporary written culture.

It is useful to think of the four levels of literacy proposed not as absolutes, but rather as ‘registers of literacy’. Just as there are speech registers and literary registers (the same information is offered in different forms during an informal conversation, in a paper orally delivered at a conference, and in the written version of that paper offered for publication), just so there seem to be registers of literacy – and registers in the literate mentalities that come with them.

A change of register may account for the apparent inconsistencies between different instances of the use of the written word by the same person, quite possibly without this person being aware of the existence of any inconsistent behaviour on his part. An imaginary professor of biology who explains the idea of evolution to his class on weekdays, on Sundays may listen with approval to a sermon on the Creation. This professor may be fully literate in his exegesis of Darwin’s *Origin of Species*, while being semi-literate in his appreciation of the

Book of Genesis. This does not make our imaginary professor a hypocrite, as he is unlikely to be equally well versed in biology, theology and literature (the literal interpretation of Scripture is not the only reading comparable to that of the natural sciences). A suspicion of hypocrisy may arise only when our professor does not do something about his views once their tension has been being pointed out to him. Fortunately for the literates' peace of mind, the occasions for such soul-searching are few and far between.

Whenever the literate register impinges on semi-literacy, the resulting growth in literate mentalities may have profound influences on mentalities generally. This happened, for instance, around the year 1000, when literates started to question the validity of conflicting authoritative texts or traditions.¹⁵ It happened again in the twelfth century, in the generation of Abelard.¹⁶ This

¹⁵ A good example is the school of Fleury under Abbo (abbot 988-1004). Abbo himself dared question the traditional dating of the year of the Incarnation, contrasting this dating with the *veritas evangelica* (cf. p. VERBIST, *In duel met het verleden: Middeleeuwse auteurs en hun chronologische correcties op de christelijke jaartelling (ca. 990-1135)*, thesis (Leuven, 2003), pp. 211-256). In his *Collectio canonum*, Abbo showed an awareness that law did change, and that canons of undoubted authority might be contradictory ("*canones sibi contradicentes*") (cf. M. MOSTERT, *The Political Theology of Abbo of Fleury: A Study of the Ideas about Society and Law of the Tenth-Century Monastic Reform Movement* (Hilversum, 1987: *Middeleeuwse Studies en Bronnen* 2), pp. 117-118, with a translation and revised edition of c. 8 of the *Collectio canonum*). Abbo's pupil Aimoin shows his critical abilities in the two books he contributed to the *Miracula Sancti Benedicti*. The most interesting chapter from this point of view is c. 4 of the second book (*Miracula Sancti Benedicti*, ed. E. DE CERTAIN, *Les Miracles de Saint Benoît* (Paris, 1858), pp. 132-135), which deals with the acquisition of the domain of Sacerge. Aimoin first relates the oral tradition, according to which a certain lord Otherius, who was paralysed "from the first flower of youth", was taken to Fleury after having received orders to do so in a dream, and there is cured with the aid of St. Benedict. He gives Sacerge to the monastery. However, Aimoin continues, "this ancient story of old men is gainsaid by an edict of the old king Chlotar III, which says that this Otherius had been sentenced to death by this king for treason, with confiscation of all his possessions, and that this particular domain was granted by the same prince to St. Benedict". How to solve this problem? Aimoin tries half-heartedly: "It is possible that after the gift which we related Otherius, accused of treason with the king" – accused, because after his miraculous cure he evidently was no longer capable of anything as abominable as treason – "was ordered to be killed, and that that king gave the same village to our monastery as if it had been his own gift". But he is doubtful, and seems to believe the edict rather than the oral tradition, which he nevertheless cannot avoid giving some semblance of credence to. When writing hagiography, Aimoin feels something akin to the tension between the literate and semi-literate registers. Incidentally, there is no evidence that, after Aimoin's finding of the edict, the community's oral tradition was corrected. If one or another of the fully literates among the "old men" agreed with Aimoin, this 'support' was not noted in the *Miracula*.

¹⁶ Cf. M.T. CLANCHY, *Abelard: A Medieval Life* (Oxford, 1997), pp. 6-7, 121-122 and *passim*. In his *Sic et Non* Abelard put together apparently contradictory statements that resemble

development in mentality is, however, no irreversible process. At other times, the semi-literate register may gain ground to the detriment of the literate register. The kinds of written texts that may be scrutinized in the literate register vary with person, time and circumstance.

Clear examples of the use of the literate register can be found not only in the twenty-first century, but in Antiquity, the Middle Ages and early modern times as well. Because of this, the notions about 'words', 'writing', 'law', 'deceit' and 'forgery' which were current among specialists of the written word in Antiquity, such as the lawyers and philosophers who first put these notions into writing, are important for our purpose in as far as they have been handed down to the Middle Ages. Similarly, the notions of diplomatists and legal historians that have been put into words since the sixteenth century are important for us, in as far as they were borrowed from Roman law either directly or through the intermediary of those medieval literates who had studied Roman law. For we are indebted to the diplomatists and legal historians for the current notion of forgery in diplomatic, and this notion can be shown to have borrowed from Roman law.

If we agree that the intensive use of the written word may lead to changes in the notion of 'writing' entertained by literates – and similarly to changes in their notions about trust in writing and written texts, about words, and about truth – we may suggest that literates, whether they lived in Antiquity, the Middle Ages or modern times, share certain aspects of these notions. For medieval and modern literates to take over classical notions about deceit and forgery, their literate mentalities must have at least some overlap for this mutual understanding to come about. Similarly, fully literate people must share at least some of their mental abilities and outlooks with their less literate contemporaries. Once notions related to the use of writing are set aside, there must have been overlap in the mentalities of medieval literates and illiterates for them to be able to communicate. Much of these shared medieval mentalities has since become foreign to us. But where the understanding of writing is concerned, that is in their literate mentality, medieval literates may be much closer to us than our own illiterate, semi-illiterate or semi-literate contemporaries.

In the societies of the early Middle Ages, nothing seems to have been impossible to accomplish without writing. This means that for most people it was

the cases presented by Abbo. Abelard was more explicit and optimistic, however, in stating that "by doubting we come to inquiry and by inquiry we perceive the truth" (*Sic et Non*, ed. B.B. BOYER and R. MCKEON (Chicago, 1976), p. 103; translation quoted from CLANCHY, *Abelard*, p. 6).

unnecessary to actively use writing. They could do without the personal abilities to read and write. Consequently, their notion of 'writing' could remain without depth. Among educated literates, however, the specialists of the written word, the situation was rather different. To facilitate their use of literate registers, new forms in the graphic design of written texts were developed (for instance word separation and punctuation).¹⁷ They also developed new genres which would have been both impossible in an exclusively oral society (for instance lists).¹⁸ They thought up paratexts that did not have any meaning without the existence of other written texts (for instance tables of contents and indices).¹⁹ In the early Middle Ages, and again in the twelfth and thirteenth centuries, the culture of the scholarly book underwent changes that could not remain without consequences for the understanding of 'writing' by literates.

Words

For us, 'word' is a grammatical idea, developed in late Antiquity. The development of grammar (a discipline whose name derives with reason from the Greek word for 'letters') is connected with developments in layout such as word separation, enabling the identification of groups of visual symbols that together represent meaningful sounds. It is sometimes claimed that developments in the abbreviation of written words (through contraction and subtraction) in the thirteenth-century universities led to graphic symbols for signifying words that are not unlike Chinese writing. This in turn may not have been a prerequisite of the development of speculative grammar, but it may have influenced this development significantly.²⁰ To literates, the spoken word seems identifiable with its written representation.

For semi-literates, 'word' refers to 'everything that can be said'. This is one of the oldest meanings of English *word* (or Dutch *woord* and German *Wort*). The same notion is also present among the Berbers of North Africa, who use

¹⁷ Word separation: P. SAENGER, *Space Between Words: The Origins of Silent Reading* (Stanford, CA, 1997). Punctuation: M.B. PARKES, *Pause and Effect: An Introduction to the History of Punctuation in the West* (Aldershot, 1992).

¹⁸ J. GOODY, *The Domestication of the Savage Mind* (Cambridge, 1977), pp. 74-111: "What's in a list?"

¹⁹ M. MOSTERT, "What happened to literacy in the Middle Ages? Scriptural evidence for the history of the western literate mentality", *Tijdschrift voor Geschiedenis* 108 (1995), pp. 323-335.

²⁰ SAENGER, *Space Between Words*, pp. 253-255.

the word *anwar* for it.²¹ Everything that is said has to be ‘true’ in the sense that one ought to be able to rely on what is said. ‘A man a man, a word a word’, as the proverb has it. This applies not only to promises or other statements of a performative nature, but also to the communication of information, and to spoken texts recognized as fictions. It even applies to poetry. In the Middle Ages, ‘word’ seems to have had this (or a similar) meaning for illiterates and semi-literates.

Writing

What is ‘writing’ for us? As experienced literates we have learnt that writing does not fix the contents of communications forever, even if writing can preserve meanings for shorter periods. Semantic developments imperceptibly increase the distance between the reader and the intentions of the author or the scribe. Words which the author used may have changed meanings when they are read, after ever increasing periods of time, by successive readers. Written texts require interpretation, exegesis; mistakes require rectification, and literates know that in time the same written text is interpreted in different ways – and even has to be interpreted differently, or else it will lose its meaning.²² To semi-literates, however, the written word is identical to the spoken word, and for them the topos of the charters’ preambles mentioning the instability of human memory is the expression of an important truth. The written word has to outlive the centuries.²³

Writing serves two purposes, which have insisted on ever since Isidore of Sevilla (c. 570-636): it serves communication and memory.²⁴ However, written texts may be used in many other ways as well. At least from late Antiquity onwards, semi-illiterates may also enjoy written texts. In a colophon from the sixth century, written in Northern Italy, a scribe asks to pray for him, and addresses his request not only to those who read the codex he has finished, but

²¹ KURVERS, *Met ongeletterde ogen*, pp. 82, 189-191.

²² M. MOSTERT, “Reflections on canonization and the authority of the word in Judaism, Christianity, and Islam: By way of comment”, in: *Medieval Transformations. Texts, Power and Gifts in Context*, ed. E. COHEN and M.B. DE JONG (Leiden etc., 2001), pp. 13-24; J.F.A. SAWYER, *Sacred Languages and Sacred Texts* (London and New York, 1999).

²³ Cf. also the *arengae* of the type *Memoria-Oblivio*: H. FICHTEAU, *Arenga: Spätantike und Mittelalter im Spiegel von Urkundenformeln* (Graz and Köln, 1957), pp. 131 ff.

²⁴ Isidorus Hispalensis, *Etymologiae*, I, III, 1, ed. W.M. LINDSAY, 2 vols. (Oxford, 1911), 1 (without pagination).

also to those who look at it, and have it in their possession. The manuscript, which does not contain any illustrations, consists of texts written by the Fathers of the Church.²⁵ The scribe does not think of a double reception of reading and listening, but of a quadruple or, when one includes the possibility of hearing the text as it is being read aloud, a quintuple reception! When eternal life will befall someone who is merely the devout owner of the book, we may ask whether all ninth-century aristocratic owners of liturgical books did indeed read the texts themselves, even if only in the semi-literate register, or whether they were content, as semi-illiterates, with the mere possession of such manuscripts. What did the duke think who, in the ninth century, put a biblical manuscript in a silver reliquary (after which the text of the manuscript could no longer be read)?²⁶ If we believe our sixth-century scribe, whether he read the book or not did not have consequences for his own entry in the Book of Life.

Writing, its physical forms and visual presentation, allowed semi-illiterates, too, to 'read' written texts as images.²⁷ They were sensitive to the splendour of liturgical manuscripts, to the riches that the possession of such a manuscript signified; they could enjoy illustrations and letters, even when they were uncertain of their meaning. The same goes for charters and their visual rhetoric. They could be understood as images, as representatives of the power of those who promulgated them or instigated the legal changes to which they testified. Thus, charters could be potent symbols of rule, power and authority.²⁸

The forms of the language itself have meaning for (semi-) literates. In those areas of medieval Europe in which Romance dialects were spoken, Latin was in origin a vernacular. Elsewhere this was not the case, and there was a choice

²⁵ MS Paris, BN lat. 9382, f. 91v: "*Scribtorum vita aeterna / Legenti pax perpetua / Videnti felicitas perennis / Habenti possessio cum salute. / Amen. Deo gracias. Ora pro me*". Cf. also f. 45v: "*Adiuro te per viventem deum caeli clementem / Ut orare pro me digneris omnipotentem / Quicumque haec veridici legeris famina vatis / Falso qui fungor Vergili nomine frustra / Ipse mihi reddat in alto qui nos secum / Per se duxit in astra*". The texts are edited in: *Catalogue des manuscrits en écriture latine portant des indications de date, de lieu ou de copiste*, ed. Ch. SAMARAN and R. MARICHAL, 7 vols. (Paris, 1959-1984), 3, p. 627.

²⁶ P.E. SCHRAMM and F. MÜTHERICH, *Denkmale der deutschen Könige und Kaiser*, 1: *Ein Beitrag zur Herrschergeschichte von Karl dem Grossen bis Friedrich II.* (München, 1962), p. 20, concerning Berengaria, Duke of Friuli.

²⁷ L. KENDRICK, *Animating the Letter: The Figurative Embodiment of Writing from Late Antiquity to the Renaissance* (Columbus, Ohio, 1999).

²⁸ P. RÜCK, "Beiträge zur diplomatischen Semiotik", in: *Graphische Symbole in mittelalterlichen Urkunden: Beiträge zur diplomatischen Semiotik*, ed. P. RÜCK (Sigmaringen, 1996: *Historische Hilfswissenschaften* 3), p. 13. Cf. also BURGERS and MOSTERT, "Oorkondenvervalsing in Holland?".

to be made between Latin and a vernacular when a charter was to be written. In the tenth century, in Romance-speaking Europe semi-literates and literates still could understand written Latin reasonably well when it was read aloud. This is suggested by the absence of so-called canonical word separation in the manuscripts produced in Reims and Fleury. Because no graphical assistance of this kind was given, one may assume that none was needed as yet: readers could still make sense of written Latin without too much word separation.²⁹ Around the middle of the thirteenth century, in Castile written Latin could be pronounced as Castilian without any problems. The chancery started to write Castilian in a different way only when a new chancellor (who had come from Italy) proved unable to understand the reading aloud of Latin charters. Only then a difference was made between the written vernacular and written Latin.³⁰ Outside Romance-speaking Europe, too, knowledge of Latin was acknowledged as a prerequisite for using writing. As far as the status of the individual languages was concerned, the relationship between Latin and the (for instance Germanic or Slavonic) vernaculars was similar to that between Latin and spoken Romance.³¹ Almost everywhere Latin seems to have been the norm whenever something had to be written down. The position of Latin was apparently first rebelled against by those literates who could distinguish between the verbal content of written texts and their external and internal non-informative characteristics. First, the vernacular had been used only for those passages in which precision had been of the essence. There was an infrequent use of the vernacular in the *vulgo dicitur* of single names and notions that were incapable of either translation or latinization. Anglo-Saxon England also knew the phe-

²⁹ M. MOSTERT, "De orale lezer", in: *De lezer in oenschouw: Een caleidoscoop van het lezen*, ed. W. DE MOOR and B. VANHESTE (Den Haag, 1999), p. 27, based on observations of SAENDER, *Space Between Words*, pp. 202-214. 'Canonical separation' leads to "the presence of spaces after every word, including all short function words" (SAENDER, *Space Between Words*, p. 44), with "interword space equivalent to an average minimum of twice the unity of space" (*ibid.*), i.e. twice the distance between "the minim stroke of the 'lowercase' letters *u*, *m*, or *n*, or more rarely the internal breadth of the letter *o*" (*ibid.*, p. 27).

³⁰ R. WRIGHT, "A sociophilological study of the change to official Romance documentation in Castile", in: *Spoken and Written Language: Relations between Latin and the Vernaculars in the Earlier Middle Ages*, ed. M. GARRISON, M. MOSTERT and A. ORBÁN with W.S. VAN EGMOND (Turnhout, 2007: *Utrecht Studies in Medieval Literacy* 4) (in preparation). Cf. also, on written Catalan, J. BELMON and F. VIELLIARD, "Latin farci et occitan dans les actes du XI^e siècle", in: *Pratiques de l'écrit documentaire au XI^e siècle*, ed. O. GUYOTJEANNIN, L. MORELLE and M. PARISSÉ (= *Bibliothèque de l'École des Chartes* 155, No. 1 (1997)), pp. 149-183.

³¹ A. ADAMSKA, "Latin and the vernaculars in medieval East Central Europe from the point of view of the history of social communication", in: *Spoken and Written Language* (in preparation).

nomenon of the vernacular boundary clause in Latin charters, which showed the exact boundaries of a village or a landed property. For these clauses a script different from that used for the rest of the charter was used as well.³² The change from Latin to the vernacular occurred at different moments in different regions of Europe, but everywhere literates would eventually renounce the use of Latin, which until then had been the norm, in favour of more comprehensible vernaculars. In the Low Countries, semi-literates in the towns, who did not themselves know Latin, demanded charters written in Latin for some time after the clerics who *did* know the sacred language had begun the shift from Latin to Dutch.³³

Texts

For us, ‘texts’ are first carriers of (verbal) information. Until quite recently, scholars tended to believe that in their editions they could do without rendering the medieval manuscripts’ external features of writing and layout, replacing them by modern equivalents. Few realized that this meant throwing away much that might lead to a better understanding of the use of a text.³⁴ For us, modern readers of the twenty-first century, the value of the text seems to reduce itself to that which we can store electronically through hitting the keys of our computer keyboards. That semi-literates have different notions of ‘text’ can easily be found out. We cannot interrogate medieval semi-literates, but we can ask the semi-literates who live in our modern societies. Recently, immigrants to the Netherlands from the Middle East and Northern Africa were asked about their notion of ‘writing’. They were semi-illiterates, because they were unable to read and write, but possessed some notions about the differences between spoken and written texts.³⁵ It was found that they were incapable of considering

³² K. LOWE, “The development of the Anglo-Saxon boundary clause”, *Nomina* 21 (1998), pp. 63-100.

³³ J.W.J. BURGERS, “De invoering van het Nederlands in de dertiende-eeuwse documentaire bronnen in Holland en Zeeland”, *Tijdschrift voor Nederlandse Taal- en Letterkunde* 112 (1996), pp. 129-150. G.M. DE MEYER, “Latijn en volkstaal, schrijftaal en spreektaal in niet-literaire teksten”, *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden* 89 (1974), pp. 1-15.

³⁴ M. MOSTERT, “Das Studium alter Handschriften als Beitrag zu einer modernen Kulturwissenschaft”, in: *Die Aktualität des Mittelalters*, ed. H.-W. GOETZ (Bochum, 2000: *Herausforderungen: Historisch-politische Analysen* 10), pp. 296-298.

³⁵ KURVERS, *Met ongeletterde ogen*.

written texts as separate entities in and for themselves. They had difficulty in understanding that in a written text the meanings of a sentence, the sentence before, and the sentence before the previous sentence might be somehow connected. Every written sentence had to be ‘true’ in itself – even if in their cultures of origin these immigrants had experienced storytelling in which succeeding sentences had indeed everything to do with one another. It was asked, for instance, whether it was possible to write: “my mother is a man”. To most, this was impossible. That everything one can possibly say can also be written down, even if it is obvious nonsense, was unknown. When asked whether it is possible to write: “the shop closes at six”, a Somalian answered that it was possible to write this sentence in Dutch, but not in Somalian, because in Somalia the shops close only at eight.³⁶ This suggests that only true statements, referring to one’s own situation, can be written down. Although we cannot know whether medieval semi-illiterates would have answered to similar questions in the same manner, we may consider, if only as a hypothesis, that for them, too – and this is quite different for literates – the written word, including charters, could contain only true, reliable statements. For them, because they could not control the contents or forms of written texts, writing was a matter of trust.

Trusting Charters?

Trust, as the Introduction to this volume suggests, is the foundation of all social relations. Societies cannot exist without some guarantee of trust. Trust presupposes that word and deed correspond, so that actions become predictable; this gives the security necessary for human life. Trust manifests itself in communication. To trust written communication, written texts have to contain true, reliable messages. Are written texts trusted because their message is trusted? Are the messages contained in written texts trusted more because they have been written down? Or is trust in writing dependent on trust in the authority of the person who ordered the message to be written down? The discussion of the different notions of writing that may be encountered in any medieval society suggests that the answers to these questions will be different when we are dealing with semi-illiterates, semi-literates or literates.

According to Michael Clanchy it took a very long time before charters were trusted by England’s literates.³⁷ In the twelfth century there was no simple

³⁶ KURVERS, *Met ongeletterde ogen*, pp. 145-147.

³⁷ CLANCHY, *From Memory to Written Record*, pp. 294 ff.

transition from the spoken to the written word; persuasion was necessary to give up old customs and habits and to start learning the techniques of reading and writing. Before writing made its breakthrough in judicial practice, the truth of an event or a transaction had been found through personal, oral testimony, often confirmed by the oaths of the parties or witnesses. Questions concerned the current state of affairs, and their facts were recalled from living memory. Whether testimony about events that had taken place in the (distant) past conformed to historical or objective truth was immaterial. No one could doubt the testimony without the possibility of control that writing was to provide later on. The remembered past adapted itself to the present; testimony gave the past an acceptable form and it was 'true' because it created trust. Witnesses who swore a solemn oath on a gospel book could be accused of lying only when God's authority was denied also. God would surely punish those who lied when uttering performative words in this manner. Collective oath-taking was personal, binding together the community. Surrounded by ritual acts, it established social security and mutual trust.

How could charters ever replace the rituals of orality? In England, the partisans of Henry I called charters "the skins of wethers blackened with ink and weighted with a little lump of lead".³⁸ The rusty sword of the Earl of Warenne was a stronger symbol than parchment, because it had its place in people's living memory.³⁹

At first, semi-illiterates or semi-literates only trusted charters (if they trusted charters at all, that is) because they trusted the power and authority of their authors or witnesses. The king's power, the power of royal rule, would strike those who would presume to resist the truth of the royal charter. It seems as if royal charters were also feared after the death of their royal authors. The fear of royal charters was inherited by the heirs to the power of these charters' authors. Royal power was trusted to act in a predictable way whenever royal charters were denied; royal charters as such were not necessarily trusted. Whenever witnesses were mentioned among the means of authentication, the charter did not replace the statements that had once been ritually pronounced, but merely made possible the repetition of the witnesses' telling the truth.

The literates, mainly clerics, tried to 'naturalize' the testimony of written documents in judicial practice because of the documents' objectivity, an objectivity which was alien to the orality of their contemporaries. Written testimony

³⁸ Eadmer, *Historia Novorum in Anglia*, ed. M. RULE (London, 1884: *Rolls Series* 81), pp. 149-151, quoted in CLANCHY, *From Memory to Written Record*, p. 261.

³⁹ CLANCHY, *From Memory to Written Record*, pp. 35-43.

could be a success in any society only after its literates themselves were convinced of the objective truth of charters. This was to happen only when registers and archives, kept in trust-inspiring places, enabled the control of originals and copies. The means of authentication in the charters themselves were insufficient to engender trust.

Witnesses remained as trustworthy as they had always been, but they died. Even when very young children were used as witnesses, who were, for instance, thrown into a well so that they remembered the event when they were as old as Methusalem, a time would come when they could no longer be asked.⁴⁰ Even the enormous numbers of witnesses listed in Catalan charters of the tenth, eleventh and twelfth centuries were no match for human mortality.⁴¹

The seal, an important element in the visual rhetoric of charters, could be forged. In 1238 Simon Langton wrote from Canterbury to the pope: "Holy Father, there is not a single sort of forgery that is not perpetrated in the church of Canterbury. For they have forged in gold, in lead, in wax, and in every kind of metal".⁴² How could someone unfamiliar with authentic seals say whether the seal on a charter was a forgery? The same held for signatures, script, the style and composition of the text (*dictamen*) ... Even if semi-illiterates might be impressed by the external forms of charters, semi-literates and literates were more difficult to please.

In the twelfth century, experimentation with the means of authentication seems to have been general. To borrow again from the documentation of Michael Clanchy, in 1153 Ralf of St. Audoen gave a salt-pan to Sele priory in Sussex. The charter drawn up for the occasion was (exceptionally) dated and signed. The preamble gives a justification for issuing the document:

Because it is appropriate that this should be brought to the reach and notice of many, it is committed to the muniments of letters by provident deliberation, lest in the process of time it be destroyed by ruinous oblivion.⁴³

⁴⁰ Cf. for this example, J.L. VAN DER GOUW, *Munimenta en Monumenta: Afscheidscollege als buitengewoon hoogleraar in de archiefwetenschap en de paleografie van de 14de tot de 17de eeuw aan de Universiteit van Amsterdam op vrijdag 10 oktober 1980* (Amsterdam, 1980), p. 3, referring to *Groot charterboek der graaven van Holland, van Zeeland en heeren van Vriesland*, ed. F. VAN MIERIS, 4 vols. (Leiden, 1763-1756), 3, p. 403.

⁴¹ A. KOSTO, "Reasons for assembly in Catalonia and Aragón, 900-1200", in: *Political Assemblies in the Earlier Middle Ages*, ed. P.S. BARNWELL and M. MOSTERT (Turnhout, 2003: *Studies in the Early Middle Ages* 7), pp. 133-149.

⁴² Edition in: C.R. CHENEY, *Medieval Texts and Studies* (Oxford, 1973), p. 104, quoted by CLANCHY, *From Memory to Written Record*, p. 298.

⁴³ *Facsimiles of Early Charters in Oxford Muniment Rooms*, ed. H.E. SALTER (Oxford,

The gift was, however, not represented by the charter, but by a more traditional symbol, a gospel book, which was put on the altar. Ralf's lord twice made an autograph sign of the cross on the charter (first in the priory, and again when the charter was exhibited in his castle). Ralf himself appended his seal. Furthermore, a long list of witnesses is mentioned. Probably the charter itself was less important than the performance of memorable rituals (which were not mentioned in the charter). Clearly the monks of Sele did everything in their power to make sure that the gift of the salt-pan was acknowledged by all parties involved: they used rituals, witnesses, traditional visual symbols such as crosses, modern ones such as seals – anything to ensure their possession. Which of the means of authentication employed proved effective was less important, as long as the content of the charter, true and reliable, inspired trust.

Of Forgeries and Innovations

All charters looked different. They were meant to fix human behaviour at a specific point in time and at a precise location. The reduction of this pluriformity by later generations reflects changes in the literate and semi-literate registers. The data collected by diplomatists to date charters and expose forgeries can be used to illustrate the developing literate mentalities prevalent in the period between that of exclusively oral judicial practice and that of the charters' objective truth.

The period of pluriformity and experimentation can be dated differently according to the region under consideration. One has the impression that in Italy it seems to have been over when in France and Germany it still had to start; and in France one can observe quite different developments in regions bordering upon one another. In England and in the county of Holland most experimentation seems to have taken place in the twelfth century. This is also the period which knows most 'forgeries'. Among these forgeries one ought to distinguish between those committed by literates and those for which semi-literates were responsible. The first group may be qualified as deceit according to the definitions of Roman Law and modern diplomatic – even if sometimes nothing but a *pia fraus* was intended. The second might rather be termed 'innovations', renewals of older, informal written notes in the novel form of charters. The difference between deceit and innovation lies in the presence or absence of

the intention to deceive and, closely linked with this, a difference in the notion of 'truth'. That which semi-literates consider to be 'true' seems to possess significant similarities with the same notion among semi-illiterates, a notion which in turn has its roots in orality.

The notion 'forgery' derives from Roman law. Its point of departure is a law of Sulla, the *Lex Cornelia de falsis* (probably 81 BC); it has been amended later by decisions of the senate and imperial constitutions. In the Middle Ages this legal notion was known mainly through the *Codex Theodosianus* (promulgated in 439) and the *Corpus Iuris Civilis* (528-534).⁴⁴ With the expansion of the late antique system of official documentation, the crime of forgery appeared both in the early medieval 'national' law codes and in canon law. In the Middle Ages no rigorous distinction was made between 'forgery' and 'deceit'; to literates, 'forgery' was part of the category of 'deceit'. The Roman notion concerned material forgery (*faux matériel*), but not, or so it seems, the insertion of untrue statements in charters which formally had to be considered authentic (*faux intellectuel*).

A single example of medieval forgeries as perpetrated by literates may suffice to show that forgery as understood by Roman law did indeed occur. In 994 or 995 Abbo of Fleury produced a charter allegedly issued by Pope Gregory IV.⁴⁵ In it, all those rights and privileges claimed by the abbey of St. Benedict are mentioned for which the abbey did not yet have any documentary support (the free election of its abbots, exemption from episcopal authority, the first rank among the abbeys in Gaul). The forgery was confirmed by Pope Gregory V in 997. It was Abbo's clear intention to obtain a genuine charter, which would stand up to the scrutiny of anyone conversant with the conventions of the papal chancery of his day. Abbo successfully made Gregory V believe Fleury's claims. He deceived the pope – even if the abbot believed he merely tried to bring the true state of affairs, that is to say the absence of any grant of episcopal exemption for Fleury, closer to the desired state of affairs.

This type of forgery rested on the distinction between the real and the desired past which only literates could discern; illiterates knew only of a single, indivisible, reliable past. Forgery was to be judged ever more harshly later on. In the early Middle Ages, in the law codes of the successors to Roman rule, the

⁴⁴ HERDE and GAWLIK, "Fälschungen", col. 247, with bibliography at col. 250; G. SCHIEMANN, "Falsum", in: *Der neue Pauly: Enzyklopädie der Antike* 4 (Stuttgart and Weimar, 1998), col. 404.

⁴⁵ M. MOSTERT, "Die Urkundenfälschungen Abbos von Fleury", in: *Fälschungen im Mittelalter*, 4 (= *Diplomatische Fälschungen* 2), pp. 287-318.

punishment mirrored the crime (the cutting off of the thumb or hand that had committed the forgery); in the later Middle Ages, under the influence of Roman law, the death penalty became fashionable. This occurred in the thirteenth century in France and England, and later also in Germany.⁴⁶

Let us give a few further examples of the other type of forgery, that of the ‘innovations’.

With but one exception, all charters promulgated in the county of Holland between 1083 and 1254 by inhabitants of the county are such renewals. Most of these 13 charters were produced in the abbey of Egmond, the comital family’s monastery.⁴⁷ In Holland, an abbot who had come from Flanders apparently played an important role in introducing charters as the dominant record form for donations. In Flanders it had been customary for some time to draw up charters about gifts of landed property. In Egmond, until the arrival of abbot Walter in 1130, the entry of notices in liturgical books had been deemed sufficient. Now these old notices were transformed into a series of charters, all showing up the inexperience of the monks who put them together. One charter is more complex, because in it several notices were amalgamated (some of which could not yet be identified).⁴⁸

Another example concerns the renewal of a whole monastic archive. In Visigothic law the procedure of *reparatio scripturae* was known, in which lost documents could be replaced on the evidence of oral testimony. In the Winter of 878-879, the monks of Sant Miquel de Cuixà set up a series of hearings to reconstruct their charters, all of which had been lost in a flood. During four sessions, 44 witnesses were heard. They knew the contents of the charters, because the monastery had had them read out two years before (*legere* and *relegere*) during assemblies at which the witnesses had been present – as had probably been many others.⁴⁹

Clearly such renewals cannot be considered on a par with cases of intentional deceit. The authors of these latter ‘forgeries’ have knowingly recreated the past in a written form that was acceptable to them; the authors of the former had at best the intention to be economical with the truth.

⁴⁶ HERDE and GAWLIK, “Fälschungen”, col. 248.

⁴⁷ BURGERS and MOSTERT, “Oorkondenvervalsing in Holland?”.

⁴⁸ J.W.J. BURGERS, “Oorkonden in Holland vóór 1200: De abdij van Egmond en het begin van het Hollandse oorkondenwezen” (in preparation for *Egmondse Studiën* 5), and see also his contribution to the present volume.

⁴⁹ KOSTO, “Reasons for assembly”, p. 141. Comparable are the *pancartae*. Cf. *Pancartes monastiques des XIe et XIIe siècles, table ronde* [Nancy, 1994], ed. M. PARISSE et al. (Turnhout, 1998: ARTEM 3).

The literates who deliberately deceived were no outsiders, operating outside the framework of judicial practice; rather, they were specialists whose work was rooted in literary and judicial written culture. The same monastic authors who stress the importance of telling the truth in the prologues of their historical works are implicated in forgery. Thus Eadmer of Canterbury maintained “that it is a shocking thing for anyone knowingly to write what is false in sacred histories, for the soul of the writer is slain every time they are read or listened to”.⁵⁰ He nevertheless fabricated charters for Canterbury in 1121-1122. There are several complex problems involved in evaluation Eadmer’s case. First, it is possible that there is a difference between the register used by Eadmer the historian and that used by Eadmer the forger. Next, the literates among the forgers knew that knowledge of the criticism of charters was not very developed, and that their notion of truth was essentially different from that of the semi-literates by whom they were surrounded. Finally, the same literates also produced the theologians who explained and copied Scripture. They understood that a charter containing untrue statements, or statements that could not be checked, incessantly proclaimed these untruths for as long as the charter existed. But literates knew that written texts were not fixed for all eternity, that even Scripture was not handed down without mistakes, and that even the Word of God therefore needed to be corrected from time to time.

Not one copy of any handwritten text is identical to any other single copy. Therefore the writings of the Latin classics were relentlessly corrected, and in the process their exact wording became obscured to such an extent that their original text could never afterwards be established. Literates of the twenty-first century are shocked by this, because they are accustomed to printed texts, and with printed texts all copies of the same edition are indeed identical. This has led to the assumption of closed textual traditions. We tend to forget that in an edition of two thousand copies the printing errors, too, are fixed two thousand times. Only now that we are becoming familiar with the much faster electronic media do we feel the need to consider anew the authority of copies of texts. For the text we found on the internet today may tomorrow have been changed – or may even have disappeared altogether. We become again sensitive to the openness of textual traditions. But that even the text of the Bible has never been established remains difficult for us to swallow. The twelfth-century monks who decided after much deliberation to use only *one* manuscript of the Bible, and to

⁵⁰ *The Life of St Anselm by Eadmer*, ed. R.W. SOUTHERN (Oxford, 1962), p. 320, discussed by CLANCHY, *From Memory to Written Record*, pp. 319-320.

copy only from *that* manuscript, were responsible for the effective fiction that they had indeed fixed the text of the Bible.⁵¹

When twelfth-century literates felt no compunction to correct canonical texts, it is hardly surprising to find them forge charters, or to renew traditionally reliable notices in the form of charters. Many semi-literates, too, must have been conscious of the problems in charter criticism arising from the experimentation and innovation that went on in documentary literacy. But they may not have drawn the same conclusions as those literates who decided to become forgers in the strict sense of the word.

The period of experimentation in charter forms finishes with the explosion in charter production in the second half of the thirteenth century, an explosion which can be observed everywhere in Europe north of the Alps. So many charters were now produced that regional chanceries began to develop;⁵² ever more towns started to employ clerks, who for the first time found enough work to allow them to live from their pen.⁵³ The difference with the twelfth century could not have been more pronounced. In Holland around the year 1100 charters were curiosities which hardly anyone outside episcopal or clerical circles ever saw; two centuries later both farmers and townspeople took home as a matter of course charters produced by clerks after fixed models, for instance immediately when a sale had been concluded. Now thousands of charters were promulgated. They lost the quasi-sacral character which the older charters had possessed, and became consumer goods. Because the archives of private persons do not withstand the ravages of time as well as those of public institutions, they could also be lost in ever larger numbers.⁵⁴

Charters were considered as valid evidence when they could be criticised. This became possible when two conditions were met: their forms had to be stable and they had to be preserved in credible places, in registers and in archives.⁵⁵ Wherever this happened, apart from ever larger groups of semi-liter-

⁵¹ R. LOEWE, "The medieval history of the Latin Vulgate", in: *The Cambridge History of the Bible*, 2, *The West from the Fathers to the Reformation*, ed. G.W.H. LAMPE (Cambridge, 1969), pp. 143-145.

⁵² P. CSENDES *et al.*, "Kanzlei, Kanzler", in: *Lexikon des Mittelalters* 5.5 (München and Zürich, 1990), col. 910-929.

⁵³ M. KINTZINGER, "Stadtschreiber, -syndicus", in: *Lexikon des Mittelalters*, 8.1 (München, 1996), col. 27. Studies of pragmatic literacy in late medieval towns often confine themselves, for understandable practical reasons, to the history of town bureaucracies. Cf., e.g. J.F. BENDERS, *Bestuursstructuur en schriftcultuur: Een analyse van de bestuurlijke verschriftelijking in Deventer tot het eind van de 15de eeuw* ([Kampen], 2004: *Publicaties van de IJsselakademie* 173).

⁵⁴ BURGERS and MOSTERT, "Oorkondenvervalsing in Holland?"

⁵⁵ In 1412-1413, the criticism of forgeries in the name of the Lithuanian king Mindaguas

ates, semi-illiterates too began to bow to the probative force of charters. They started to understand the convenience of using written documents as evidence, when even the rulers had to acknowledge the contents of those texts – although they did not give up their traditional ritual judicial forms easily. How did this happen? And why did it happen almost everywhere in the thirteenth century? Had there not existed ways of controlling forgers and ‘renewers’ of judicial documents before? In Italy (as elsewhere in the Mediterranean wherever written Roman law had never completely disappeared) a method had already been developed to enable the criticism of charters. All that needed doing was to date the documents with care, and to have them written by public notaries, who kept copies of the text in a credible place acknowledged by those in power. In the twelfth century, notaries were hardly ever found outside the *pays de droit écrit*, even if their ways of writing and keeping charters were known. In the thirteenth century they started appearing elsewhere as well. Simultaneously, the rulers developed the keeping and registration of outgoing documents in archives, at the same time when they gradually developed their chanceries.⁵⁶

The Thirteenth Century and Beyond

In the thirteenth century we find for the first time a culture of the written word that is known and shared throughout Europe. This is reflected in the layout of manuscripts and documents, which begin to show ever greater similarities. This common culture was helped also by the universities, with the University of Paris at their head. Here, groups of literates were educated who made the separation between the text and its author irrevocable. Here texts were produced which had been unthinkable in circumstances of predominant orality. Texts were not only organized logically, chronologically or geographically, but

(discussed by A. ADAMSKA, “Waging warfare and making peace with written documents: The Kingdom of Poland against the Teutonic Knights in the fifteenth century”, in this volume), in which a counterfeit seal was found to have been used, was possible only through a comparison with “letters from the lands of Lithuania, dating from the period in which the said alleged letters of donation are said to have been written, which are either similar or are sealed with a similar seal” (*Lites ac res gestae inter Polonos ordinemque Cruciferorum*, ed. I. ZAKRZEWSKI, 2nd edn. 3 vols. (Poznań, 1890-1892), 2, p. 297). The only place where such a comparison was possible, was the chancery-cum-archives. Here as elsewhere the criticism of means of authentication and the development of credible places of record keeping are closely connected.

⁵⁶ A. GAWLIK *et al.*, “Notar, Notariat”, in: *Lexikon des Mittelalters* 6.6 (München and Zürich, 1993), col. 1271-1281.

also alphabetically.⁵⁷ Systems of cross-references, alphabetical indices etc. were brought to perfection because the intellectuals needed them. After a while these systems were no longer used only in the science of exegesis or in homiletic, for which they had been developed. Graduates of the *studia* started to use the new systems of presenting textual information also in their various clerkly professions. This made it easier to find back the bits and pieces of information they had to look for in the ever growing masses of documentation.

And the forgeries? Innovations and renewals were abandoned. Deceit was punished ever more severely. Pope Innocent III had significantly changed canon law regarding the forgery of papal bulls already in 1201. Until then, not knowing that the charter one used was a forgery had been a valid excuse for avoiding punishment. Now, criteria for the authentication of charters were made available, and the excuse was no longer valid.⁵⁸ The increase in punishment was a consequence both of the increased familiarity with papal bulls and of the increased trust in writing as such.

At the end of the thirteenth century, in England it was decided that from now on written evidence was to be adduced in court as proof of any transactions involving landed properties which had taken place since the accession of Richard I in 1189. Legal memory was arbitrarily fixed at 100 years, never to be changed again.⁵⁹ This marks the transition from memory to written record in legal matters, a transition which took place earlier in England than in some other regions north of the Alps, but one which was to be reproduced everywhere, whenever archives and registration increased trust in the written products of pragmatic literacy.

The authority of registers as credible places grew further in modern times. The gradual supplanting of charters by extracts from registers was the next step in the development of documentary literacy. The last royal charter issued in the Netherlands as a sealed charter dates from 1935. It concerned the appointment

⁵⁷ To less-than-literate contemporaries it was almost heresy to deal with God the Father before God the Son merely because *filius* preceded *pater* in texts ordered alphabetically. See R.H. ROUSE and M.H. ROUSE, *Preachers, Florilegia and Sermons: Studies on the Manipulus florum of Thomas of Ireland* (Toronto, 1979: *Studies and Texts* 47), p. 35. Cf. also J.-Cl. SCHMITT, "Recueils franciscains d'*exempla* et perfectionnement des techniques intellectuelles du XIII^e au XV^e siècle", *Bibliothèque de l'Ecole des Chartes* 135 (1977), pp. 5-21.

⁵⁸ HERDE and GAWLIK, "Fälschungen", col. 248-249. See also K. FIANU, "Le faussaire exposé: L'État et l'écrit dans la France du XIV^e siècle", in: *Les rites de la justice: Gestes et rituels au Moyen Âge occidental*, ed. C. GAVARD and R. JACOB (Paris, 1999: *Cahiers du Léopard d'Or* 9), pp. 125-144.

⁵⁹ CLANCHY, *From Memory to Written Record*, pp. 169-170.

of the last governor of the Dutch East Indies – and as so many of his medieval predecessors, this recipient, too, had to pay a considerable sum for the privilege.⁶⁰ When nowadays a young doctor receives his degree from a Dutch university, the document may or may not be issued with a seal (in 1986 in Amsterdam this seal was glued on and fell off after only a few hours). At the same time, however, the document is presented as an extract from the Book of the University. But nobody knows where this book is kept. It might be understandable, therefore – and also because the auxiliary sciences are constantly under threat – if the number of forged university degrees will continue to increase in the years to come.

⁶⁰ VAN DER GOUW, *Munimenta en monumenta*, p. 10.

Part II: Charters

From Subscription to Seal: The Growing Importance of Seals as Signs of Authenticity in Early Medieval Royal Charters

PETER WORM

The question of trust in writing is intimately linked with the study of medieval charters. Especially for the period up to the year 1000, charters are the most conspicuous evidence that people believed in the power of the written word.¹ Studies of Carolingian history have shown that literacy played a marked role in the first century and a half of Carolingian rule.² The Church was both their principal supporter and their most prominent beneficiary, as the series of royal diplomas for several churches and monasteries still show.

¹ P. JOHANEK, "Zur rechtlichen Funktion von Traditionsnotiz, Traditionsbuch und Siegelurkunde", in: *Recht und Schrift im Mittelalter*, ed. P. CLASSEN (Sigmaringen, 1977: *Vorträge und Forschungen* 23), pp. 131-162.

² R. MCKITTERICK, *The Carolingians and the Written Word* (Cambridge, 1989); H. KELLER, "Zum Charakter der 'Staatlichkeit' zwischen karolingischer Reichsreform und hochmittelalterlichem Herrschaftsausbau", *Frühmittelalterliche Studien* 23 (1989), pp. 248-264; M. MERSIOWSKY, "Regierungspraxis und Schriftlichkeit im Karolingerreich: Das Fallbeispiel der Mandate und Briefe", in: *Schriftkultur und Reichsverwaltung unter den Karolingern: Referate des Kolloquiums der Nordrhein-Westfälischen Akademie der Wissenschaften am 17./18. Februar 1994 in Bonn*, ed. R. SCHIEFFER (Opladen, 1996: *Abhandlungen der Nordrhein-Westfälischen Akademie der Wissenschaften* 97), pp. 109-166; M. STRATMANN, "Schriftlichkeit in der Verwaltung von Bistümern und Klöstern zur Zeit Karls des Großen", in: *Karl der Große und sein Nachwirken: 1200 Jahre Kultur und Wissenschaft in Europa – Charlemagne and his Heritage, 1200 Years of Civilisation and Science in Europe*, 1, *Wissen und Weltbild – Scholarship, World-view and Understanding*, ed. P. BUTZER et al. (Turnhout, 1997), pp. 251-275.

In which ways could these documents obtain authenticity? What made them trustworthy?³ In the study of Carolingian royal charters, scholars have so far concentrated on the use two main devices: the subscription (including its monogrammatic forms) and the seal.⁴

I.

As David Ganz recently put it in his contribution to the Festschrift for Malcolm Parkes, in late Antiquity and the early Medieval Ages the autograph showed a person's consent to the signed document.⁵ Some of the best illustrations for this use can be found the long lists of signatures on synodal protocols. We find the act of signing depicted in a miniature showing four participants in the Fourth Council of Toledo in a row, with one of them showing the other three where to sign their name (fig. 1).

However, can we be certain that, when we are dealing with royal charters, the signature is also used for authentication in the same way we use signatures

³ U. FREVERT, "Vertrauen: Historische Annäherungen an eine Gefühlshaltung", in: *Emotionalität: Zur Geschichte der Gefühle*, ed. C. BENTHIEN, A. FLEIG and I. KASTEN (Köln, Weimar and Wien, 2000: *Literatur – Kultur – Geschlecht: Studien zur Literatur- und Kulturgeschichte* 16), pp. 178-197, esp. p. 183; and *Vertrauen: Historische Annäherungen*, ed. U. FREVERT (Göttingen, 2003).

⁴ H. BRESSLAU, "Urkundenbeweis und Urkundenschreiber im älteren deutschen Recht", *Forschungen zur deutschen Geschichte* 26 (1886), pp. 1-66; H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien*, 1 (Berlin, 1969⁴), 2, ed. W. KLEWITZ (Berlin, 1968⁴), Register, ed. H.K. SCHULZE (Berlin, 1960); W. SCHLÖGL, *Die Unterfertigung deutscher Könige von der Karolingerzeit bis zum Interregnum durch Kreuz und Unterschrift: Beiträge zur Geschichte und zur Technik der Unterfertigung im Mittelalter* (Kallmünz, 1978: *Münchner Historische Studien – Abteilung Geschichtliche Hilfswissenschaften* 16); L. SAUPE, *Die Unterfertigung der lateinischen Urkunden* (Kallmünz, 1983: *Münchner Historische Studien – Abteilung Geschichtliche Hilfswissenschaften* 20); P. RÜCK, *Bildberichte vom König* (Marburg, 1996: *elementa diplomatica* 4); H. KELLER, "Zu den Siegeln der Karolinger und Ottonen: Urkunden als 'Hoheitszeichen' in der Kommunikation des Königs mit seinen Getreuen", *Frühmittelalterliche Studien* 32 (1998), pp. 400-441; P. WORM, *Karolingische Rekognitionszeichen: Die Kanzlerzeile und ihre graphische Ausgestaltung auf den Herrscherurkunden des achten und neunten Jahrhunderts* (Marburg 2004: *elementa diplomatica* 10).

⁵ Augustine, *Sermo* 348A, ed. in: *PL* 39, col. 1721: "amen vestrum, subscriptio vestra est, consensio vestra est, adstipulatio vestra est". Cf. D. GANZ, " 'Mind in character': Ancient and medieval ideas about the status of the autograph as an expression of personality", in: *Of the Making of Books: Medieval Manuscripts, their Scribes and Readers – Essays Presented to Malcolm Beckwith Parkes*, ed. P.R. ROBINSON and R. ZIM (Aldershot, 1997), pp. 280-299, esp. p. 285.

nowadays? Nineteenth-century scholars often thought this to be the case. But have we got evidence for that view? In Merovingian times the king himself and a superior layman, the *referendarius*, subscribed the royal charters (fig. 2a):⁶ the king wrote his name and the word *subscripsi* in an arch-like figure; the clerk adding *recognovit* or *obtulit* to his own name. Only under age rulers or, as Offergeld put it more precisely, kings who could not write yet, replaced the word *subscripsi* by a monogram made out of their name and title.⁷ At least from c. 660-679, when the royal chancellery started to use parchment instead of papyrus, the seal was applied separately on two anti-cyclic spirals forming the salutatio “*bene valeat*”.⁸ In an abstract manner the seal shows the king’s frontal image using abstract forms. The iconography was reminiscent of the way men were typically depicted on contemporary fibulas or hilts.⁹

The first Carolingians changed the *eschatocol* (fig. 2b): The king’s signature could now be dispensed with; it was used only to stress royal intervention in significant acts of privilege. The *précepte mineur* did not need it.¹⁰ The chancellor’s subscription, however, inevitably continued to be needed for an authen-

⁶ *Die Urkunden der Merowinger*, ed. T. KÖLZER et al., 2 vols. (Hannover, 2001: MGH *Diplomata regum Francorum e stirpe merovingica*) [henceforth MGH *Die Urkunden der Merowinger*], pp. XV-XVIII; H. ATSMÄ and J. VEZIN, “Les autographes dans les documents mérovingiens”, in: *Gli autografi medievali: Problemi paleografici e filologici*, ed. P. CHIESA and L. PINELLI (Spoleto, 1994: *Quaderni di cultura mediolatina* 5), pp. 61-75; ID., “Graphische Elemente in den in zeitgenössischer Form überlieferten Dokumenten des Merowingerreichs”, in: *Graphische Symbole in mittelalterlichen Urkunden: Beiträge zur diplomatischen Semiotik*, ed. P. RÜCK (Sigmaringen, 1996: *Historische Hilfswissenschaften* 3), pp. 319-333; E. EISENLOHR, “Von ligierten zu symbolischen Invokations- und Rekognitionszeichen”, in: *Graphische Symbole*, pp. 167-262, esp. pp. 231-232.

⁷ MGH, *Die Urkunden der Merowinger*, p. XX; T. OFFERGELD, *Reges pueri: Das Königtum Minderjähriger im früheren Mittelalter* (Hannover, 2001: MGH *Schriften* 50), pp. 268 ff.

⁸ L. LEVILLAIN, “La formule ‘bene valiat’ et le sceau dans les diplômes mérovingiens”, *Bibliothèque de l’École des Chartes* 92 (1931), pp. 5-22.

⁹ V. HILBERG, “Monogrammverwendung und Schriftlichkeit im merowingischen Frankenreich”, in: *Arbeiten aus dem Marburger hilfswissenschaftlichen Institut*, ed. E. EISENLOHR and P. WORM, (Marburg, 2000: *elementa diplomatica* 8), pp. 63-122; T. CAPELLE, *Die verborgenen Menschen in der germanischen Ornamentkunst des frühen Mittelalters* (Lund, 2003).

¹⁰ R.-H. BAUTIER, “La chancellerie et les actes royaux dans les royaumes carolingiens”, *Bibliothèque de l’École des Chartes* 142 (1984), pp. 5-80, esp. pp. 49-51; ID., “Les actes royaux de l’époque carolingienne”, in: *Typologie der Königsurkunden: Kolloquium der Commission Internationale de Diplomatie in Olmütz 30.8.-3.9.1992*, ed. J. BISTRICHÝ (Olomouc, 1998), pp. 23-41, esp. p. 30; with finer gradations: M. MERSIOWSKY, “Carta edita, causa finita? Zur Diplomatik Kaiser Arnolfs”, in: *Kaiser Arnolf: Das ostfränkische Reich am Ende des 9. Jahrhunderts*, ed. F. FUCHS (München, 2002: *Zeitschrift für bayerische Landesgeschichte*, Beiheft 19, Reihe B), pp. 271-374, esp. pp. 301-303.

tic royal charter. Since Louis the Pious' reign, the chancellor's name is accompanied by his rank in the ecclesiastical hierarchy (e.g. that of deacon), and by the phrase "*recognovi et subscripsi*". The last word is written in the characteristic form of an arch; it is often compared to a beehive.¹¹ Under Charlemagne, its right-hand side 'tentacles' developed to become the new place for the seal (*locus sigilli*).¹² The image on the seal no longer used the abstract Frankish forms but those of antique gems, which could be identified by the seal's inscription.¹³

It is probably a modern view that autographs prove the authenticity of a document because they allow palaeographic comparison. There is only one instance of such a comparison recorded for the Merovingians. The story is told in the tenth book of Gregory of Tours' *Histories*. Bishop Egidius of Reims claimed possessions acquired in the civil war between King Chilperich I (r. 561-584) and his challenger King Childebert II (r. 575-596) as royal grants, confirmed by a royal privilege. The king denied having made the donation and called his former *referendarius* Otto to ask him, if the subscription on the charter was his. Otto declared that the subscription was not his, and therefore the bishop was found fraudulent.¹⁴

A similar procedure is mentioned in a capitulary of the early ninth century, which allows one to prove the authenticity of a charter by comparing the diploma in question with two others written by the same *cancellarius*.¹⁵ In the

¹¹ For the French term 'ruche', cf. A. GIRY, *Manuel de Diplomatie* (Paris, 1894), p. 595; G. TESSIER, *Diplomatique royale française* (Paris, 1962), p. 96.

¹² WORM, "Karolingische Rekognitionszeichen", pp. 154-155.

¹³ KELLER, "Zu den Siegeln der Karolinger und Ottonen", pp. 406-407.

¹⁴ Gregorii Episcopi Turonensis, *Libri Historiarum*, ed. B. KRUSCH and W. LEVISON (Hannover, 1951²: *MGH SRM* 1.1), liber 10, c.19: "*Ad haec ille [Bishop Egidius of Reims, P.W.] respondit: 'Quod fuerim amicus regis Chilperici, negare non potero, non tamen contra utilitatem regis Childeberthi haec amicitia pullulavit. Villas vero, quas memoras, per istius regis chartas emerui'. Tunc proferens easdem in publico, negat rex se haec largitum fuisse; reque situsque Otto qui tunc referendarius fuerat, cuius ibi subscriptio meditata tenebatur, adfuit, negat se subscripsisse. Conficta enim erat manus eius in huius praeceptionis scripta. In hac igitur causa primum episcopus fallax repertus est*". Cf. for Merovingian jurisdiction in general and this case in particular, M. WEIDEMANN, *Kulturgeschichte der Merowingerzeit nach den Werken Gregors von Tours*, 1 (Mainz, 1982: *Römisch-Germanisches Zentralmuseum – Monographien* 3.1), pp. 123-124.

¹⁵ *Capitularia regum Francorum*, 1, ed. A. BORETIUS (Hannover, 1883: *MGH Capitularia* 1), p. 215: "7. ... *cum duabus aliis cartis, quae eiusdem cancellarii manu firmatae sunt vel subscriptae, suam cartam quae tertia est veracem et legitimam esse confirmet. Cancellarius tamen talis esse debet, qui pagensibus loci illius notus fuisset et acceptus*"; cf. H.U. KANTOROWICZ, "Schriftvergleichung und Urkundenfälschung: Beitrag zur Geschichte der Diplomatik im Mittelalter", *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 9 (1906),

Lex Ribuaria, this proof had been described as an *ultima ratio*, to be employed if all else fails, for instance when the witnesses and the *cancellarius* himself have died. A certain distrust in this method is reflected by the choice of the place where such an expertise should be performed: on the altar (“*super altario*”).¹⁶ In this way the examination almost becomes a kind of ordeal. At the end of the ninth century, another king, Wido of Spoleto († 894), enacted a similar decree. There is only one case reported in which such a method was actually used in a dispute (in 1012).¹⁷

What further evidence do we have from charters or historiographical sources? We know from a donation king Odoacer made in 489, that (at least in this specific case) a royal representative confirmed his own subscription on a royal grant when the document was inserted in the *gesta municipalia*.¹⁸ Once the act of privilege was entered into the *gesta*-protocol, the charter lost its probative power. Because they were used only for a very short time, there was no permanent seal affixed to charters; a seal was merely used to close them temporarily. Whenever a charter was later to be used in court, a copy was made from the entry in the *gesta*-protocol that documented, e.g. the change in ownership of a parcel of land.¹⁹

pp. 38-53, esp. pp. 39-42.

¹⁶ There is controversy as to whether the passage of the *Lex Ribuaria* (c. 600-620) did or did not allow such treatment (cf. *Lex Ribvaria*, ed. F. BEYERLE and R. BUCHNER (Hannover, 1954: *MGH, Leges nationum Germanicarum* 3.2), p. 115, § 62, 5: “*Si autem cancellarius mortuus fuerit, tunc ei liceat, qui rem comparavit, cum tres cartas, quas ipse cancellarius scripsit, absque pugna cartam suam super altario positam idoniare*”). H. BRUNNER, “*Carta und Notitia*”, in: *Commentationes philologiae in honorem Theodori Mommseni* (Berlin, 1877), pp. 570-589 denied the possibility; BRESSLAU, “*Urkundenbeweis und Urkundenschreiber*”, pp. 14-15 and ID., *Urkundenlehre*, 1, pp. 488-489 thought the contrary; it was denied again by H. BRUNNER, *Deutsche Rechtsgeschichte* (Leipzig, 1892: *Systematisches Handbuch der deutschen Rechtswissenschaft* 2.1), p. 423, n. 16; cf. KANTOROWICZ, “*Schriftvergleichung und Urkundenfälschung*”, pp. 41-42; among the followers Bresslau in this matter, one finds most recently JOHANEK, “*Zur rechtlichen Funktion von Traditionsnotiz*”, p. 137; for the connection between charter and altar cf. A. ANGENENDT, “*Cartam offerre super altare: Zur Liturgisierung von Rechtsvorgängen*”, *Frühmittelalterliche Studien* 36 (2002), pp. 133-158.

¹⁷ Cf. KANTOROWICZ, “*Schriftvergleichung und Urkundenfälschung*”, p. 42.

¹⁸ J.-O. TJÄDER, *Die nichtliterarischen Papyri Italiens aus der Zeit 455-700* (Uppsala, 1955: *Skrifter utgivna av Svenska Institutet i Rom* 19), 1: Papyri 1-28, No. 10/11, pp. 279-293; cf. P. CLASSEN, *Kaiserreskript und Königsurkunde: Diplomatische Studien zum Problem der Kontinuität zwischen Altertum und Mittelalter* (Thessaloniki, 1977: *Byzantina keimena kai meletai* 15), pp. 123-128.

¹⁹ CLASSEN, *Kaiserreskript und Königsurkunde*, pp. 233-239.

Later, royal oaths were still corroborated *manu propria*. Thus the *Annales Bertiniani* report the oath that Louis the Stammerer (r. 877-879) gave on his accession. It ends with the words:

Therefore I, Louis, out of love for what is right and just reading this my promise, made of my free will, have confirmed it by my own hand.

*Ego igitur Hladowicus rectitudinis et iustitiae amore hanc spontaneam promissionem meam relegens, manu propria firmavi.*²⁰

Carolingian kings used this visible, demonstrative act also during solemn granting ceremonies. We get a vivid description from an Aquitanian charter issued by Pippin II († after 864):

And soon, chancellor Hilduin having been summoned, we have ordered this precept of our authority to be written and to be brought to [this] day's Mass; when all saw it, we have confirmed it.

*Mox quoque, cancellario accersito Hilduino, hunc ... nostre auctoritatis preceptum conscribere iussimus et in missam diei asportare; quod videntibus cunctis, confirmavimus.*²¹

Almost every Carolingian charter with a royal monogrammatic subscription refers to this act in a formalised way, announcing sign and seal in the corroboration by the phrase:

And so that this authority be kept firmer and will be preserved better in our times as in future ones, it has pleased us both to subscribe it with our own hands and to seal it with the impression of our seal.

²⁰ *Annales de Saint-Bertin*, ed. F. GRAT et al. (Paris, 1964: *Société de l'Histoire de France* 470), quotation after the edition of R. RAU, in: *Quellen zur karolingischen Reichsgeschichte*, ed. R. RAU, 2 (Darmstadt, 1961: *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters* 6) liber 3, ad a. 877, p. 217.

²¹ *Recueil des Actes de Pépin I^{er} et de Pépin II rois d'Aquitaine*, ed. L. LEVILLAIN (Paris, 1926: *Chartes et diplômes relatifs à l'histoire de France* 8), D. 61 (848.03.25), pp. 248-268, esp. p. 267; cf. P. WORM, "Beobachtungen zum Privilegierungsakt am Beispiel einer Urkunde Pippins II. von Aquitanien", *Archiv für Diplomatik* 49 (2003) (forthcoming), pp. 15-48, esp. pp. 35-36.

*Et ut haec auctoritas firmitior habeatur et nostris futurisque temporibus ab omnibus melius conservetur, placuit nobis eam et propriis manibus subscribere et anuli impressione sigillare.*²²

In his *Vita Bernwardi*, dating from the tenth century, Thangmar describes a donation by king Rudolph II (r. 912-937) still made in the same way:

He gave the bishop the property of three manors in Pavia, with a written record, and confirmed it with his subscription and the impression of his seal.

*Qui tradidit episcopo in proprietatem infra Papiam cum manuscripto tres curtiles, et sua subscriptione anulique impressione roboravit.*²³

A charter's invalidation takes place in the reverse order: by publicly breaking its seal and cutting up the parchment.²⁴

In the high Middle Ages a royal monogram was subsequently added to minor precepts, which until then had only relied on the chancellor's subscription.²⁵ Apparently, the legal successors of the recipients now felt a 'credibility gap' that could not be closed by the recognition. Clearly, something must have changed between the tenth and the eleventh centuries, when these additions first take place.

²² The example is taken from the *Formulae Imperiales*, No. 40, ed. in: *Formulae Merovingici et Karolini aevi*, ed. K. ZEUMER (Hannover, 1886: *MGH Formulae Merovingici et Karolini aevi*), p. 318, but the phrase can also be found in several Carolingian royal diplomas.

²³ Thangmar, *Vita Bernwardi*, c. 27, ed. in: *Vitae quorundam episcoporum saeculorum X, XI, XII*, ed. and tr. H. KALLFELZ (Darmstadt, 1973: *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters* 22), p. 771.

²⁴ Charter of the mayor of the palace Pippin (a. 749), ed. in: *Die Urkunden der Arnulfinger*, ed. I. HEIDRICH (Bad Münstereifel, 2001), No. 21; charter of Otto I (968.09.02), ed. in: *Die Urkunden Konrad I., Heinrich I. und Otto I.*, ed. T. VON SICKEL (Hannover, 1879-1884: *MGH, Die Urkunden der deutschen Könige und Kaiser* 1), No. 367, p. 504: Otto's archchancellor revokes Berengar's charter by breaking the seal and cutting up the parchment: "*Tum iudicio tam episcoporum quamque comitum seu iudicium fracto sigillo scissaque membrana per manum Huberti episcopi et archicancellarii nostri, nostra preceptali auctoritate confirmamus et corroboramus*".

²⁵ E.g. in the charter of Louis the German for the monastery of Rheinau, 870.03.20, ed. in: *Die Urkunden Ludwigs des Deutschen, Karlmanns und Ludwigs des Jüngeren*, ed. P. KEHR (Hannover, 1932-1934: *MGH, Die Urkunden der deutschen Karolinger* 1), No. 130; facsimile in: *Diplomata Karolinorum: Faksimile-Ausgabe der in der Schweiz liegenden originalen Karolingerdiplome*, ed. A. BRUCKNER (Basel, 1969-1981), No. 49. Another example is Charlemagne's charter for the monastery of Ebersheim, 810.08.12, ed. in: *Die Urkunden Pippins, Karlmanns und Karls des Großen*, ed. E. MÜHLBACHER (Hannover, 1906: *MGH, Die Urkunden der Karolinger* 1), No. 210; cf. WORM, *Karolingische Rekognitionszeichen*, p. 158.

II.

The chancellor's subscription is undergoing modifications between the eighth and the tenth centuries (fig. 3a-d). During the eighth century, the subscription started with a chrismon, a graphically condensed form of the invocation *In dei nomine*, and ended with the arch for *subscripsi*, from which three 'tentacles' reached out on the right-hand side.²⁶ These 'tentacles' are modified spellings of a threefold *amen*, developed either out of the tironian note for *amen* or out of the cursive handwriting which was still in use at the time.²⁷ In this way the chancellor's subscription could be marked as a legal act in its own right; it 'mirrored' the charter itself, which also starts with a chrismon and usually ends with a threefold *amen* after the date and *apprecatio* (final salutation).

From the middle of the ninth century there are changes in all Carolingian kingdoms. Since the years of Charles the Bald, in the West the chrismon of the recognition is used less and less frequently. Often the entire word *subscripsit*, now conjugated in the third person, is written into the arch, suggesting an over-arching ligature between the first and the last letter. The seal is affixed under the arch, concealing most of the writing underneath. About a century later, the superfluous forms of the beehive are still inscribed occasionally, but then the charters are the products of the beneficiaries themselves, and there is no memory of the beehive's original meaning.²⁸

In the Eastern kingdom, there are rather similar developments: Louis the German's famous chancellor Hebarhard and his predecessor Hadebert gradually stopped using chrismons and restructured the 'tentacles' on the right-hand side of the beehives.²⁹ Giving up the threefold *amen*, they replaced it by a threefold *bene valeat* written in tironian notes – a kind of revival of the old *apprecatio*. Soon after Louis' death, tironian notes became obsolete, and then the 'tentacles' were either deformed or they vanished completely. The beehive remained in use. Under the early Ottonians, however, it was separated from the chancellor's subscription and stripped of its original meaning. Under Otto III beehives were no longer drawn on charters.³⁰

²⁶ EISENLOHR, "Von ligierten zu symbolischen Invokationszeichen", pp. 190-198.

²⁷ WORM, *Karolingische Rekognitionszeichen*, pp. 36-37, 49.

²⁸ WORM, *Karolingische Rekognitionszeichen*, pp. 132-133.

²⁹ P. JOHANEK, "Die karolingischen Diplome der Francia orientalis", in: *Typologie der Königsurkunden*, pp. 115-125, esp. pp. 120-124; KELLER, "Zu den Siegeln der Karolinger und Ottonen", pp. 413-415.

³⁰ RÜCK, *Bildberichte*, pp. 9-13; WORM, *Karolingische Rekognitionszeichen*, pp. 87-89, and, for the use of tironian notes, cf. pp. 143-152.

In Italy, several kings, such as Berengar I († 924)), followed the East-Frankish tradition; but soon the influence of the private charters took over and two long ‘s’ were written as a double arch to which the seal was affixed. Whereas we rarely find chrismons on these charters, the connection to the beehive’s origins remained present.

While the kings’ subscriptions became ever more important, the chancellors’ lost their importance, turning into a mere naming of the staff responsible for drawing up the act of privilege. This task could easily be fulfilled by an ordinary scribe, or even by a recipient’s scribe with restricted knowledge of diplomatic *formulae* used at the royal court. An autograph subscription was no longer necessary.

The seal was the only three-dimensional element of corroboration. Already at the beginning of the Carolingian era, it was intimately linked to the king’s person; it was even an object of *memoria* and devotion. Ratpert of St. Gall († after 884) describes a significant scene: Louis the Pious was asked in 816 by the monks of St. Gall to corroborate a charter issued by his father, Charlemagne. To this end the charter was handed over to the emperor, who recognized his father’s seal and kissed it in veneration. Afterwards, he gave it to his counsellors, standing close by, for a similar demonstration of respect to his ancestor.³¹ Some 300 years later, Lothar III († 1137) had a quarrel with the pope about the status of the abbey of Monte Cassino. To prove the close relationship between the empire and the abbey, he did the same with his predecessors’ char-

³¹ Perhaps this scene describes what is meant by the term *pia recordatio*, used in many *narrationes* (e.g. in a charter for the bishop of Würzburg issued by Louis the Pious on 822.12.19, ed. in: *Urkundenbuch der Stadt Heilbronn*, ed. E. KNUPFER, 1 (Stuttgart, 1904: *Württembergische Geschichtsquellen* 5), No. 1: “... quia adiit serenitatem culminis nostri venerabilis vir Uulgarius, Uuirzburgensis ecclesiae episcopus ... [et] detulit obtutibus nostris duo praecepta domni et genitoris nostri Karoli, piae recordationis praestantissimi imperatoris”. Cf. KELLER, “Zu den Siegeln der Karolinger und Ottonen”, pp. 429–430; H. KELLER, “Otto der Große urkundet im Bodenseegebiet: Inszenierungen der ‘Gegenwart des Herrschers’ in einer vom König selten besuchten Landschaft”, in: *Mediaevalia Augiensia: Forschungen zur Geschichte des Mittelalters*, ed. J. PETERSOHN (Stuttgart, 2001: *Vorträge und Forschungen* 54), pp. 205–245, esp. p. 217, referring to Ratpert, *St. Galler Klostergeschichten (Casus sancti Galli)*, ed. and tr. H. STEINER (Hannover, 2002: *MGH SRG in usum scholarum separatim editi* 75), c. 6, p. 180: “Quam [cartam, P.W.] cum piissimus imperator suscepisset sigillumque sui patris recognoscendo intuitus esset venerando deosculatus est circumque adstantibus similiter honoris causa deosculandum contradidit. Deinde carta traditur legenda”.

ters. Kissing a seal was a sign of approval; it meant the confirmation of the dispositions expressed in the old parchments.³²

There were changes in the seals' iconography (see figs. 4a-c): The ruler's face, formerly shown in profile, in Ottonian times turns towards the observer, looking intently at him or her, thus evoking the presence of the emperor depicted on the seal.³³ Just as the author's picture in medieval codices, the seal acts as a "*Surrogat des anwesenden Sprechers*".³⁴

There is a second lesson to be learnt from Louis' and Lothar's behaviour. Intentionally or not, they were copying a symbolic repertoire which had its origins in the liturgy. They were kissing their predecessors' charters, in a manner similar to the celebrant's kissing the gospel book during Mass. Requesting their counsellors to kiss the seals reminds one of the celebrant's handing over of the gospel book to his co-celebrants to do the same.³⁵ Many more examples can be found of characteristics of charters being transformed into something sacral, or of the setting for issuing charters was connected with liturgy. Phrases such as "*divina ordinante providentia*" were added to the emperor's title in the *intitulatio*.³⁶ The *arenga* often picked up theological thoughts about the duties of princes, and the Carolingians were not afraid of threatening those who acted

³² W. TRESELER, "Lothar III. und die Privilegien des Klosters Monte Cassino: Symbolische Kommunikation während des Konflikts zwischen Kaiser und Papst im Jahr 1137", *Frühmittelalterliche Studien* 35 (2001), pp. 313-328.

³³ KELLER, "Zu den Siegeln der Karolinger und Ottonen".

³⁴ J.-D. MÜLLER, "Ritual, paratituelle Handlungen, Geistliches Spiel: Zum Verhältnis von Schrift und Performanz", in: *Audiovisualität vor und nach Gutenberg: Zur Kulturgeschichte der medialen Umbrüche*, ed. H. WENZEL, W. SEIPEL and G. WUNBERG (Wien, 2001: *Schriften des Kunsthistorischen Museums* 6), pp. 63-71, esp. p. 64.

³⁵ J.A. JUNGSMANN, *Missarum Sollemnia*, 1 (Freiburg, 1962), pp. 575-577; for the special charisma of the royal charter and especially its seal, cf. B. BEDOS-REZAK, "Ritual in the royal chancery: Text, image, and the representation of kingship in medieval French diplomas (700-1200)", in: *European Monarchy: Its Evolution and Practice from Roman Antiquity to Modern Times*, ed. H. DURCHARDT, R.A. JACKSON and D. STURDY (Stuttgart, 1992), pp. 27-40; fundamental is P. RÜCK, "Die Urkunde als Kunstwerk", in: *Kaiserin Theophanu: Begegnung des Ostens und Westens um die Wende des ersten Jahrtausends: Gedenkschrift des Kölner Schnütgen-Museums zum 1000. Todesjahr der Kaiserin*, ed. A. VON EUW and P. SCHREINER, 2 vols. (Köln, 1991), 2, pp. 311-333, reprinted in: *Fachgebiet Historische Hilfswissenschaften: Ausgewählte Aufsätze zum 65. Geburtstag von Peter Rück*, ed. E. EISENLOHR and P. WORM (Marburg, 2000: *elementa diplomatica* 9), pp. 117-139.

³⁶ H. WOLFRAM, "Lateinische Herrschertitel im neunten und zehnten Jahrhundert", in: *Intitulatio II. Lateinische Herrscher- und Fürstentitel im neunten und zehnten Jahrhundert*, ed. H. WOLFRAM (Wien, Köln and Graz, 1973: *Mitteilungen des Österreichischen Instituts für Geschichtsforschung, Ergänzungsband* 24), pp. 19-178, esp. p. 81; J. STUDEMANN, "Die Pönformel der mittelalterlichen Urkunden", in: *Archiv für Urkundenforschung* 12 (1932), pp. 251-374, esp. p. 343; WORM, "Beobachtungen", pp. 46-48.

against their will with sanctions concerning the offender's afterlife.³⁷ The charter was conceived as a prayer, with the invocation of God at the beginning and an *amen* at its end; the prayer was repeated in the text of the recognition. Against this background, the employment of clerics in the chancery is not just the consequence of a lack of qualified lay scribes.³⁸ If there were no lay scribes, the Carolingians made a virtue of necessity, for using clerics meant a possibility of integrating the issuing process (and especially the promulgation (*publicatio*)) into the liturgy.³⁹ According to several sources, it was a frequent practice to announce the royal charter in mass after the deacon had read the gospel.⁴⁰ In the case of those chancellors who were in deacon's orders, one might even imagine that the same person did both readings. As we have seen, other parts of the privilegation process could also be performed in church, such as the *firmitio* by the king, or even a palaeographic expertise.

III.

Reading the Carolingian charter as the result of an ongoing struggle for trust and credibility leads to new perspectives, that could be summed up under three main headings.

The first one is that of 'administrative credibility'. This may be an antique inheritance, which had been continued up to the sixth or even seventh century by the *gesta municipalia* and later by the Frankish scribes at the county

³⁷ H. FICHTEAU, *Arenga: Spätantike und Mittelalter im Spiegel von Urkundenformeln* (Wien, 1957: *Mitteilungen des Österreichischen Instituts für Geschichtsforschung, Ergänzungsband* 18), pp. 84-85, 151-152.

³⁸ P. RICHÉ, "La formation des scribes dans le monde mérovingien et carolingien", in: *Histoire comparée de l'administration (IV^e-XVIII^e siècles)*, ed. W. PARAVICINI and K.F. WERNER (München, 1980: *Beihefte der Francia* 9), pp. 75-80, esp. pp. 79-80.

³⁹ J. STUTTMANN, "Die Pönformel", pp. 335-339.

⁴⁰ *Die Chronik des Bischofs Thietmar von Merseburg und ihre Korveier Überarbeitung*, ed. R. HOLZMANN, (Berlin, 1955: *MGH SRG nova series* 9), liber III, c. 1, pp. 96-98: "*Insuper licentiam archiepiscopum eligendi confratribus Magadaburg famulantibus precepto imperiali presente archiepiscopo dedit Aethelberto et cum uno libro, qui hodie ibidem est, in quo sua imperiatricisque Theophanu imago auro splendet formata, munus affirmavit. Quod gratia cesaris et in presentia eius archiepiscopus, preparatus ad missam, cum perlecto euvangelio more solito optime predicasset, recitato coram precepto imperiali, quo electio continebatur, ostendit eundemque, quicumque temerarius hoc umquam auderet infringere, terribili excommunicatione damnavit, cunctis prosequentibus 'Amen! Fiat! Fiat!' consolidavit*"; cf. KELLER, "Zu den Siegeln der Karolinger und Ottonen", pp. 426-427.

courts.⁴¹ In the royal chancery, the chancellors played this role, enabling them to issue minor privileges without direct royal intervention. Perhaps the early Carolingians compensated their missing birthright and lack of ancestral dignity by confirming every act.⁴² The grandsons of Charlemagne stopped that kind of substantiation, either because they themselves did not need it any longer or because their beneficiaries no longer attached importance to it.

Different from the county courts, which employed lay scribes, clerics were employed at the chancery. This suggests a second way of confirming trust, which one might call 'sacralisation'. By using phrases, ideas and rituals borrowed from the liturgy, some of the liturgy's credibility and dignity carried over to the royal charter. This practice probably proved most convincing, especially for the short-term effects resulting from issuing and promulgation.⁴³

The third manner depended on personal symbols connected to the ruler. This applies to the royal monogram, which at first had merely been a means of showing that the king had personally been involved in taking a decision. Only later did it gain in importance. These personal symbols also included the seal with its picture of the king, showing his presence in the charter as a permanent admonition for those trying to break the charter's provisions, and as a place for *memoria* and veneration for others. How the seal became a *pars pro toto* for the charter, and even for its issuer, is shown in an illustration from the *Sachsenspiegel* dating from the early fourteenth century (fig. 5). In the upper panel, the beneficiary receives a royal diploma with an appending seal. The identification of the seal's image with the king is implied by use of the same colours, especially for the crown. In the lower panel, the recipient tries to claim his new interests by showing his royal grant. Significantly, the king on the seal is shown in the gesture of talking with one hand uplifted.

⁴¹ JOHANEK, "Zur rechtlichen Funktion von Traditionsnotiz", pp. 134-144; the idea had already been developed by H. AUBIN, "Vom Absterben antiken Lebens im Frühmittelalter", *Antike und Abendland* 3 (1948), pp. 88-119, esp. p. 100; cf. F. STAAB, *Untersuchungen zur Gesellschaft am Mittelrhein in der Karolingerzeit* (Wiesbaden, 1975: *Geschichtliche Landeskunde* 11), pp. 137-153; RICHÉ, "Formation", S. 78.

⁴² Wolfram expressed similar considerations on the Carolingian changes in the *intitulatio*: H. WOLFRAM, *Intitulatio 1. Lateinische Königs- und Fürstentitel bis zum Ende des achten Jahrhunderts* (Wien-Köln-Graz 1967: *Mitteilungen des Österreichischen Instituts für Geschichtsforschung, Ergänzungsband* 21), pp. 216-217.

⁴³ The term 'sacralisation' has been borrowed from J. ASSMANN, *Das kulturelle Gedächtnis: Schrift, Erinnerung und politische Identität in frühen Hochkulturen* (München, 1992; 1997²), p. 193, a study of ancient Egypt; cf. also KELLER, "Zu den Siegeln der Karolinger und Ottonen", p. 409; STUDDTMANN, "Die Pönformel", pp. 337-339; WORM, "Beobachtungen", pp. 34-37 and 45-48.



Fig. 1: The Fourth Council of Toledo: Subscription of the bishops (Cod. Emilianensis, Escorial d.1.1), from: H.J. SIEBEN, *Konzilsdarstellungen* (Würzburg, 1990), fig. 7.

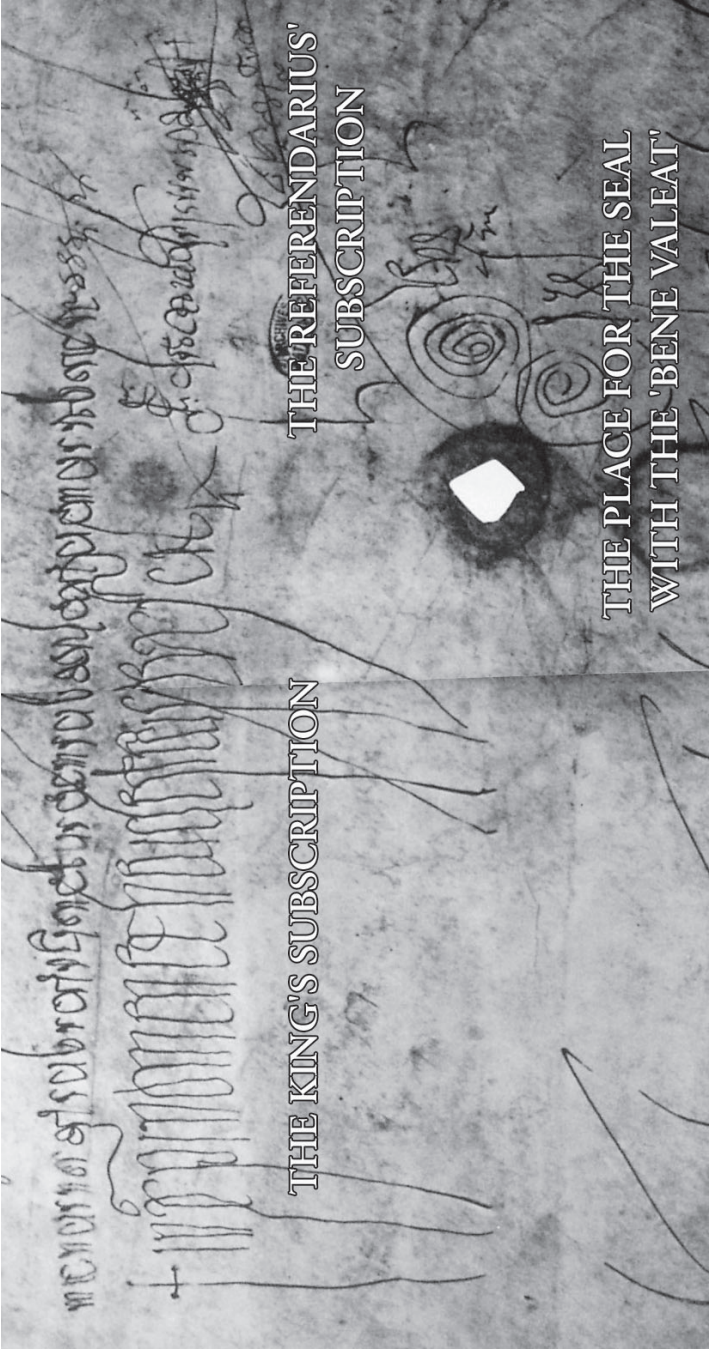


Fig. 2a: The corroborating parts of a Merovingian charter (Theuderic III =Dmer. 47, 677.09.12), from: *Chartae Latinae Antiquiores* XIII/566.

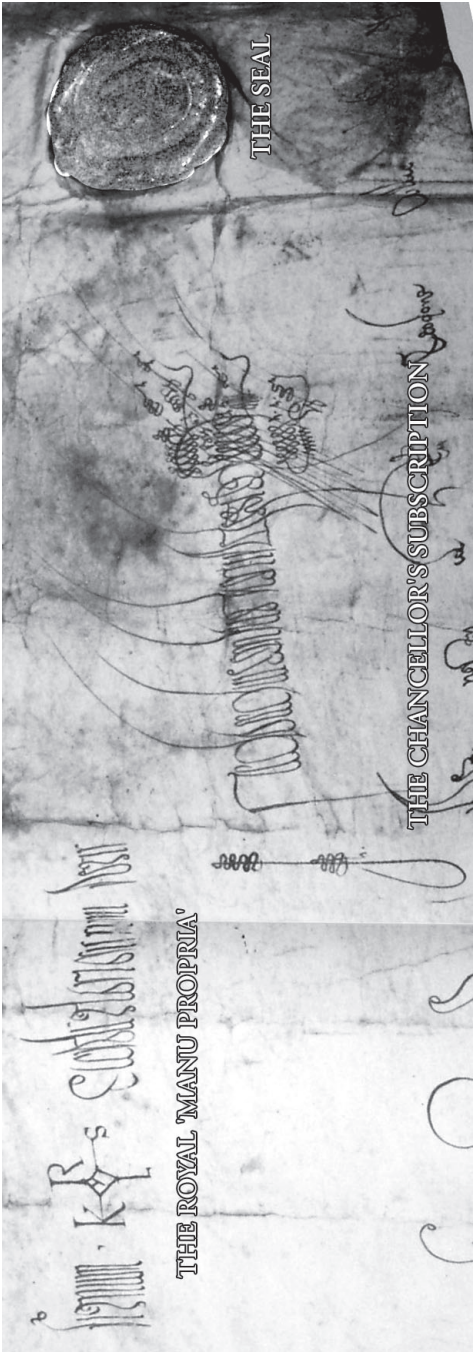


Fig. 2b: The corroborating parts of a Carolingian charter (Charlemagne = Dkar. 107, 775.11.-), from: *Chartae Latinae Antiquiores* XVI/620.

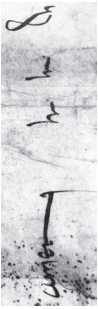
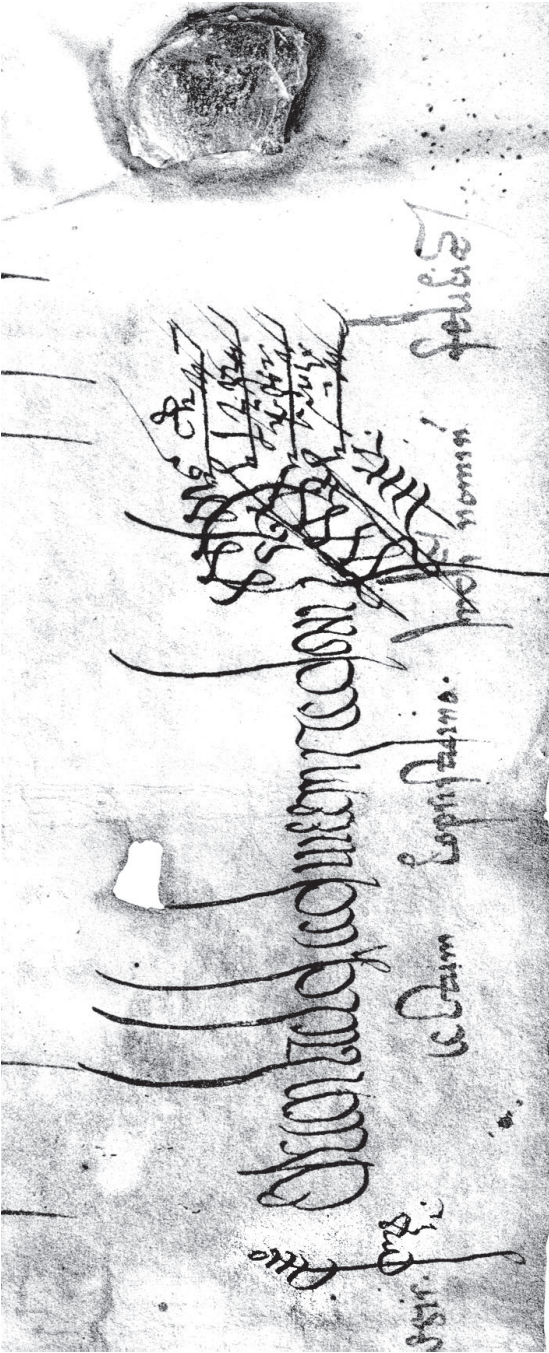


Fig. 3a: Subscription of Ercanbald on a charter of Charlemagne (Dkar.166, 790. 08.31), from: *Diplomata Karolinorum* ed. F. LOT and Ph. LAUER (Toulouse, 1936), I, No. 29 and three tironian 'amen' (BM². 582, 815. 06. 03), from: *Lichtbildarchiv älterer Originalurkunden* (Marburg), No. 1175.

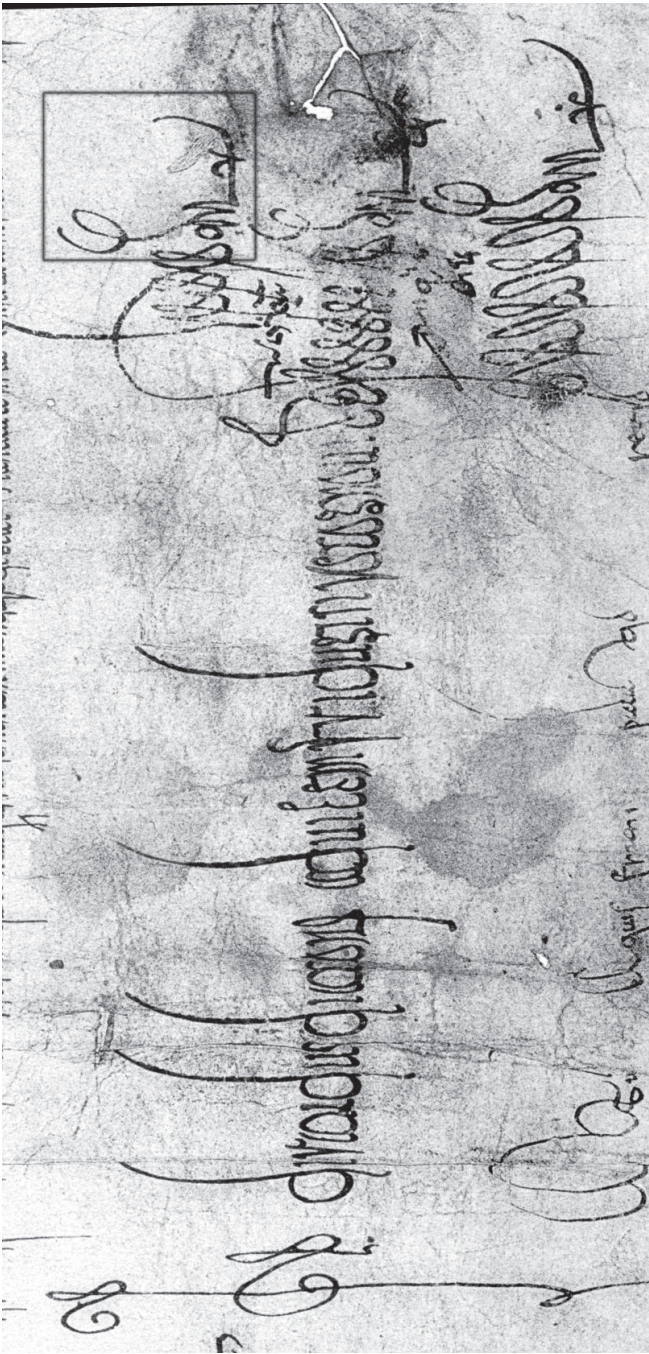


Fig. 3b: Subscription of Durandus and the final 'amen' on a charter of Louis the Pious (BM². 756, 822.04.18), from: *Diplomata Karolinorum* ed. F. LOT and Ph. LAUER (Toulouse, 1946), II, No. 12.

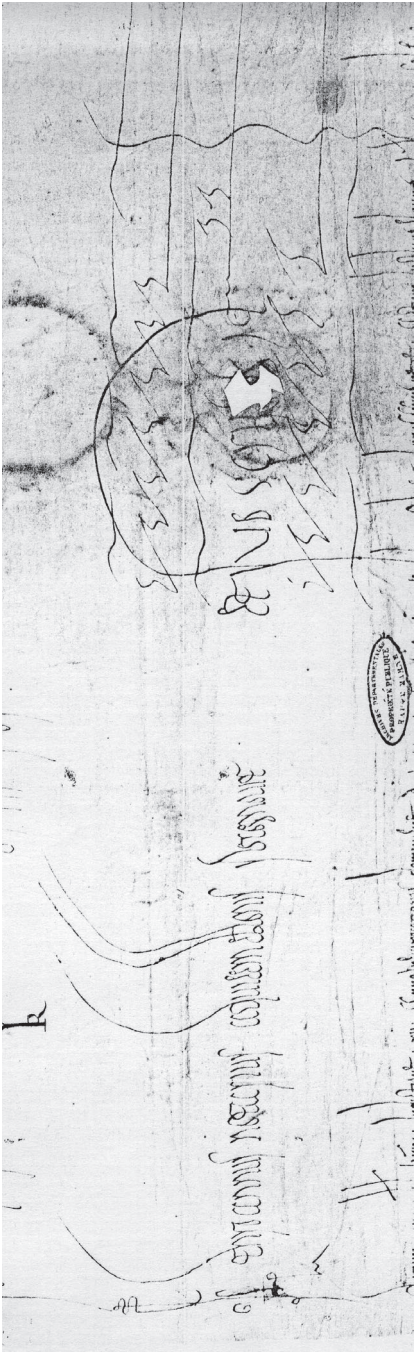


Fig. 3c: Subscription of Throann using an ‘s-t-ligature’ for his beehive on a Westfrankish charter of Odo (DO.15, 889.10.04), from: *Diplomata Karolinorum* ed. F. LOT and Ph. LAUER (Toulouse, 1943), VII, No. 13.

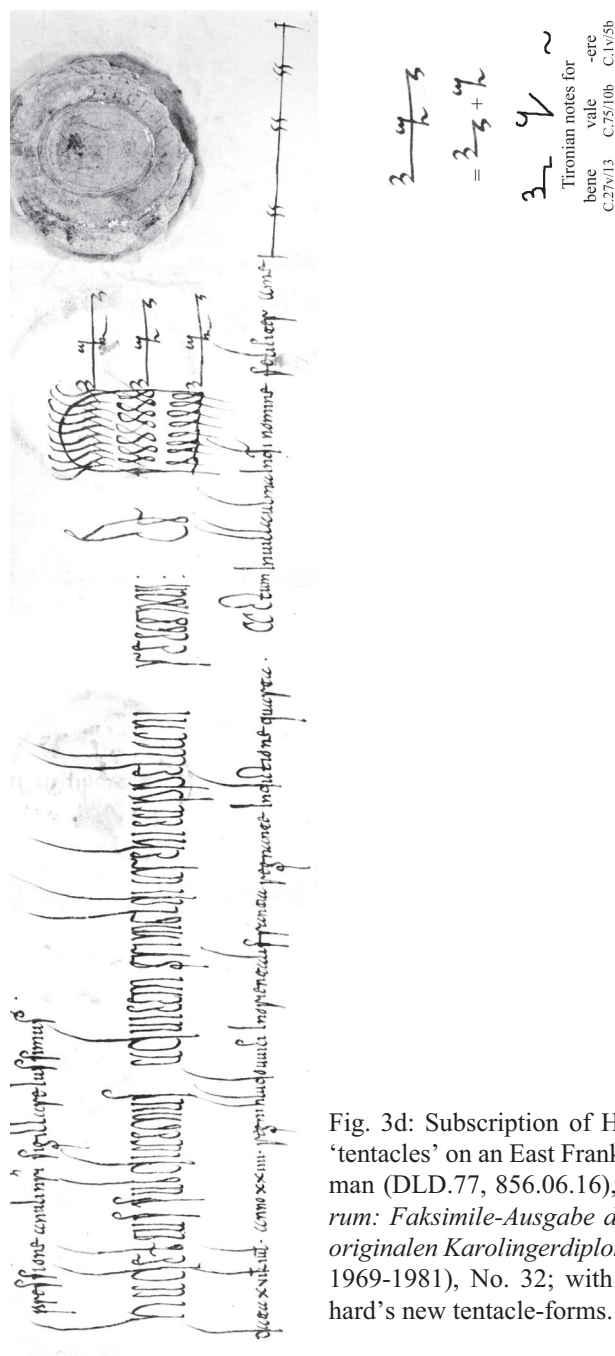


Fig. 3d: Subscription of Hadebert with a new kind of ‘tentacles’ on an East Frankish charter of Louis the German (DLD.77, 856.06.16), from: *Diplomata Karolynorum: Faksimile-Ausgabe der in der Schweiz liegenden originalen Karolingerdiplome*, ed. A. BRUCKNER (Basel, 1969-1981), No. 32; with an interpretation of Hebarhard’s new tentacle-forms.



Fig. 4a: Merovingian seal (Childebert III), from: V. HILBERG, "Monogrammverwendung und Schriftlichkeit im merowingischen Frankenreich", in: *Arbeiten aus dem Marburger hilfswissenschaftlichen Institut*, ed. E. EISENLOHR and P. WORM (Marburg 2000: *elementa diplomatica* 8), pp. 63-122, fig. 2b.



Fig. 4b: Carolingian seal (Charlemagne) from: H. KELLER, "Zu den Siegeln der Karolinger und Ottonen: Urkunden als 'Hoheitszeichen' in der Kommunikation des Königs mit seinen Getreuen", in: *Frühmittelalterliche Studien* 32 (1998), tab. XL, fig. 81.



Fig. 4c: Ottonian seal (Otto II, 973-983), from: H. KELLER, "Zu den Siegeln der Karolinger und Ottonen", tab. XLIV, fig. 95.

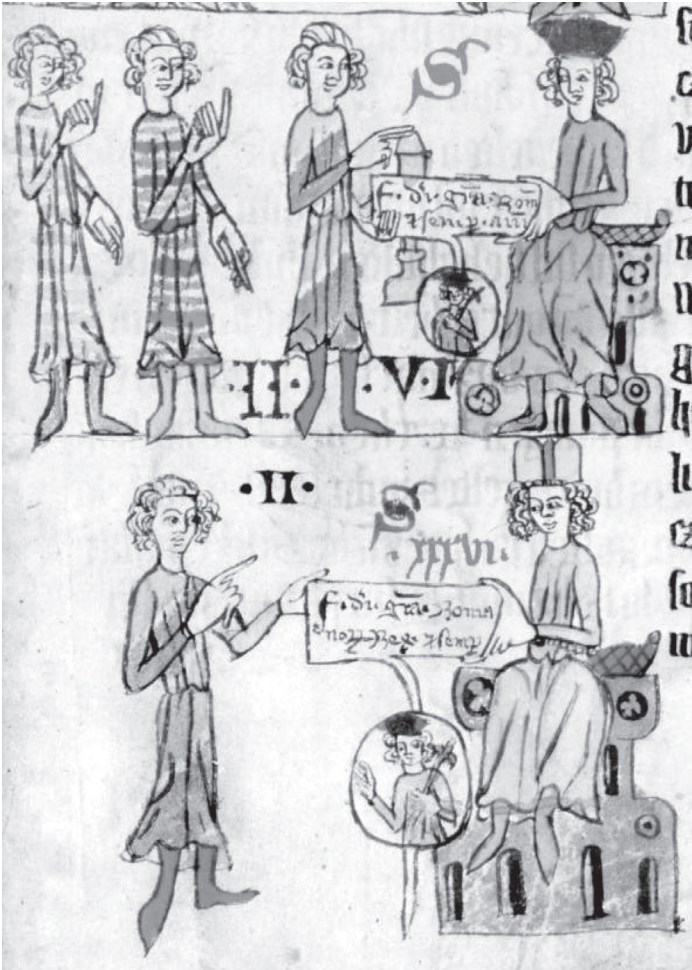


Fig. 5: An act of privilege in the *Sachsenspiegel* (Universitätsbib. Heidelberg, CPG 164, fol. 17r) – Upper panel: Resemblance between seal and issuer – Lower panel: Gesture of talking within the seal as a symbol for the king's will, expressed in the charter, from: R. SCHMIDT-WIEGAND, "Die rechtshistorische Funktion graphischer Zeichen und Symbole", in: *Graphische Symbole in mittelalterlichen Urkunden*, ed. P. RÜCK (Sigmaringen, 1996: *Hist. Hilfswissenschaften* 3), pp. 67-79, fig. 2.

30 June 1047: The End of Charters as Legal Evidence in France?

KARL HEIDECKER

Some readers might suspect that it is impossible to pinpoint the exact date at which charters ceased to be considered legal evidence in France. Of course they are probably right. But are they really? Certain events taking place on 30 June, probably in the year 1047, may at least serve as evidence for the declining use of charters as legal evidence. Whatever we may conclude, these events have served as a major argument for Alain de Boüard in his *Manuel de diplomatie française et pontificale* to prove that charters had lost their use as legal evidence in eleventh-century France. They prove, as he says, “*L’échec total de l’acte en son rôle d’instrument de preuve*”. And there is more: writing had lost its function in law and, consequently, the legal aspects of Roman civilisation had degenerated. De Boüard blames Germanic influences for this.

*Ainsi, dans l’ambiance germanique délétère, l’acte privé dispositif et authentique, pointe de civilisation héritée de Rome, avait complètement dégénéré. Bien plus: on a pu dire sans exagération qu’alors, l’écrit ayant été dépouillé de toute fonction juridique et de toute vertu probatoire, il n’existait plus en Droit d’acte privé.*¹

You cannot get more dramatic than that.

In this paper, however, I will try to convince you of the opposite. I will claim that the events of 30 June 1047 may serve as an argument to prove the importance of charters as legal evidence in eleventh-century France. Of course

¹ A. DE BOÜARD, *Manuel de diplomatie française et pontificale*, 2, *L’acte privé* (Paris, 1948), pp. 147-149.

it is not simply my purpose to prove that De Boüard was wrong in his interpretation of this case. After all, this is just one case and there are many more. We will consider the notion of written texts as evidence, and we will look at this one case to find out how writing could be used. From this examination, we may draw some conclusions about the existence of what Michael Clanchy in his ground-breaking book *From Memory to Written Record* has called with a general descriptive expression a “literate mentality”, that is “the cluster of attitudes which literates shared, expressed in all sorts of ways in surviving records”. So we will be looking for these “literate modes of behaviour”.² The social group dealt with in the following pages is the landholding aristocracy, both lay and clerical, in southern Burgundy. Did they possess a ‘literate mentality’?

The events of 30 June 1047 are known from two charters, and from those two charters only. Both still exist as originals. The first is a donation charter issued by two brothers to the monastery of Cluny. It was almost certainly drafted and written by a scribe from the monastery. The second is a notice in objective style, settling a dispute, also written by the monks of Cluny. Both charters have been edited in the late nineteenth century by Auguste Bertrand and Alexandre Bruel.³ It is in their edition that one first comes across the story; it is their edition that De Boüard has used; and it is also their edition that Georges Duby used for his famous study of the Mâconnais.⁴

This is what seems to have happened. According to the first charter, two brothers, Odulricus and Gausfredus, with other unnamed brothers and relatives, made a donation to Cluny for the sake of the soul of their deceased relative Wichardus. They donated two groups of properties from his inheritance. They also donated a female serf, called Tezia, and a third, small property. They confirmed the gift with their own hands and handed it over to witnesses to corroborate it (“*manibus propriis firmamus testibusque roborandam tradimus*”). At this

² M.T. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2nd edn. (Oxford, 1993), pp. 186-187. Ground-breaking for the subject of charter writing and literacy in eleventh-century France is O. GUYOTJEANNIN, “‘Penuria scriptorum’: Le mythe de l’anarchie documentaire dans la France du Nord (X^e-première moitié du XI^e siècle)”, in: *Pratiques de l’écrit documentaire au XI^e siècle*, ed. O. GUYOTJEANNIN, L. MORELLE and M. PARISSE (= *Bibliothèque de l’École des Chartes* 155.1 (1997), pp. 11-44.

³ *Recueil des chartes de l’abbaye de Cluny*, ed. A. BERNARD and A. BRUEL, 6 vols. (Paris, 1876-1903), 3, pp. 221-222, Nos. 2008-2009. The dates of the charters are corrected by M. CHAUME, “Observations sur la chronologie des chartes de l’abbaye de Cluny”, *Revue Mabillon* 31 (1941), p. 42.

⁴ G. DUBY, *La société aux XI^e et XII^e siècles dans la région mâconnaise* (Paris, 1953; repr. Paris, 1988).

point in the charter follows a list of eighteen names, starting with the names of the two brothers.

The second charter tells almost the same story, but gives more details. It specifies the names of the six brothers, of their mother Eufemia and of their four sisters, and the names of four neighbours, one of whom is called a “*clericus*”. After a long time, so the charter tells us, the brothers started to dispute the donation of the serf Tezia. They claimed that they had never given her to the monastery. On hearing this, the husband of the serf went to abbot Odilo of Cluny (c. 962-1048), asking him for advice. Odilo immediately sent for the first donation charter the brothers had requested to be drafted, and which they had confirmed. After he had found this document, he invited the brothers to come to the monastery on the feast of St. Paul (30 June). They came, and Odilo showed them (“*ostendit*”) the charter they had caused to be drawn up about the donation of this serf, in the presence of all. Then, the notice continues, some of them agreed with its tenor, but others denied it (“*quidam consenserunt, quidam vero negaverunt*”). The abbot tried to convince them with sweet words (“*dulcis sermonibus*”), but without success. Finally, he offered them 23 solidi and asked them to confirm the new charter, in which the dispute was settled. They all confirmed and corroborated it unanimously.

The story seems clear. De Boüard explains the events as follows: the brothers shamelessly denied a donation charter they had made for the abbey, and in the end changed their mind only for money.⁵

Until recently, this was the version I too knew and accepted. Then I saw a photograph of the charters (figs. 1-2, *infra*, at pp. ? and ?).⁶ There was something strange about them: they were sewn together. When I read these photographs of the originals, I noticed other peculiarities. Several hands had collaborated in them. They were clearly not written in one go – and there were interpolations. Seeing the originals made this even clearer.⁷

⁵ DE BOÜARD, *Manuel de diplomatique française et pontificale*, 2, p. 147, n. 3.

⁶ I received the set of pictures initially by courtesy of the ARTEM in Nancy. They are Nos. 1675-1676 of their general inventory of all original charters preserved in France up to the year 1120. Recently these two charters have become available in a facsimile edition of the early original charters of Cluny: *Les plus anciens documents originaux de l'abbaye de Cluny*, ed. H. AT SMA and J. VEZIN avec la collaboration de S. BARRET, 3 vols. (Turnhout, 1997-2002), 3, pp. 89-91. (Four more volumes are scheduled to appear.) Atsma and Vezin suggest a date towards the end of the abbacy of Odilo († 1049), the abbot mentioned in the charter. In their edition they have chosen 994-1048, thus allowing them to publish the charter in their edition, much to the benefit of the scholarly community. 1047 or 1048 seem likely, at the end of the abbacy of Odilo as the abbot was frequently absent from Cluny during the previous years.

⁷ MS Paris, Bibliothèque Nationale de France, Collection de Bourgogne vol. 77, nr. 82-1/2.

The most important of these interpolations concerned the donation of the serf Tezia, which had provoked the whole dispute. The note of this donation is an interpolation in the first charter, in the same hand that was responsible for the main charter text. It occurs after the first line of signatures, and a reference sign shows where it ought to be inserted in the main text.⁸ After the first two subscriptions, the other names are clearly in different hands; some were added singly, some in groups.⁹ The following (sets of) names can be distinguished graphically:

- l. 9: *S. Eufemia*;
- l. 9 at the end and line 10 at the end: *S. Giraldi S. Iodceranni S. Widburgis*;
- l. 10: *S. Bernardi*;
- l. 11: *S. Wichardi S. Mariani S. Ildini S. Achardi S. Constantini*;
- l. 11: *S. Achini*;
- l. 12: *S. Bernardi S. Widberti*;
- l. 12: *S. Tetziae S. Agnes*.

Atsma and Vezin do not distinguish that many hands, but even if several of these sets of names would have been written by the same scribe, the different colours of the ink and the varying thickness of the lines argue for writing in a number of stages. Moreover, the text of the first two lines is rather messy. The word “*fratribus*” has been added at the end of the first line by yet another hand; however, without this addition and the other corrections the text would not make much sense. These additions and corrections must have been added even later than the interpolation about Tezia – indeed, after the writing of the second charter, for three of the subscribers (Bernar, Wichardus and Ildinus) are not mentioned in the second charter and the name of the mother, Eufemia, is inserted there later still, between the lines.¹⁰ Also, the order of the names is totally different in the two charters. It is difficult to imagine a list of names being copied so badly into the second charter. For all these reasons, the list of names in the first charter must postdate that in the second charter.

If this is so, the behaviour of the brothers needs a rather different explanation. They emphatically did not deny the validity of a charter they themselves had confirmed. They, or rather some of them, denied the donation of Tezia, which had been added later to the original donations – and to which they perhaps had never agreed. The donations mainly concerned part of the inheritance

⁸ See fig. 1, l. 11 and l. 6.

⁹ See fig. 1.

¹⁰ See fig. 2, l. 7 as compared to fig. 1, l. 9.

they all had had rights to. They only consented to the later donation of Tezia after having received compensation, which amounted to 23 solidi. The name of the serf, Tezia, indicates that she belonged to this family, as the name was very familiar among the female family members.¹¹ There is one more additional donation on the first charter, added by a different hand on a separate line at the bottom of the charter.¹² How can this be explained? A tempting explanation, though a purely hypothetical one, might be that it served as a compensation by the two original donors, compensating the monastery of Cluny for the 23 solidi they had given as a compensation to the relatives who had not accepted the donation of the serf Tezia. If this is correct, we seem to be witnessing a series of gifts and counter-gifts to end a situation which was embarrassing for all parties concerned, meant to maintain friendly relations among them all.

How, then, did the subscriptions get onto the first charter? My suggestion is that they were added later, after the disputed donation of the serf was settled in an agreement all could live with. The subscriptions proved the agreement and the witnessing of this donation (also in the sense of ‘guaranteeing’) by all subscribers. In the process, they even added four more subscriptions: one from the mother, whom they had to interpolate in the notice as well, and three from others, probably neighbours who had witnessed the donation.

What does this tell us about literate mentalities? First, there is no sign that any of the people involved denied the validity of charters as legal evidence. On the contrary, they understood their value very well. The refusal of the donation of Tezia might have been well founded. It could not be found in the first charter as it had first been written. They had not agreed to this donation! It cannot even be excluded that the brothers who refused to accept the donation could read this charter and, what is more, could see that it had been interpolated. After all, the charter was shown to them and not read aloud – at least that is what our text says. It also cannot be excluded that some subscriptions were autographs. The monks of Cluny went to great lengths to have the charter subscribed by everyone involved. The charter must either have been sent around to give everyone a chance to have their subscription added, or the monks must have invited people occasionally to subscribe it. This would account for the different hands of the signatures, occurring as they do in distinct groups. Apparently the monks thought these subscriptions a guarantee for the donation. Furthermore, they made a more detailed, objectively styled notice (the second charter) relating

¹¹ On this family group, see: B.H. ROSENWEIN, *To Be the Neighbor of Saint Peter: The Social Meaning of Cluny's Property, 909-1049* (Ithaca and London, 1989), pp. 69-74, 226-228.

¹² See fig. 1.

exactly all the events. This was to serve them as a memory prop. Finally, they attached this aide-mémoire to the first charter. This must have happened rather soon, as the eleventh-century dorsal note found on the second charter refers to the first charter as “*carta Odulrici*”. It must therefore have been added after the joining of both charters. Moreover, whereas the first charter had been folded both horizontally and vertically, the second charter had been folded only horizontally. This suggests that the package of both charters had become too thick to be folded both ways.

So the written word was an important means for securing possession, but, as these charters show, it was not the only means. Importance was also attached to the role of witnesses. Actions took place in public, with a crowd of people present. Things agreed upon and legal actions undertaken could only with great difficulty be denied later – at least as long as those who had been present were still alive.

Another curious feature of this charter is the small piece of a twig attached to the original donation charter. When exactly this twig was attached cannot be found out with absolute certainty, but it can probably be linked to the first donation, that of the landed property. The handing over of a twig, a herb or a sod, a symbolic object signifying the property being handed over, was a very common ritual act. It was performed in public, in the presence of the neighbours present, and often took place on the very property which was handed over. Attaching a twig to a charter is rather peculiar, as two ‘methods’ of handing over a property, one literate and the other non-literate, seem to have merged. Nonetheless, the way of preserving the twig – with a charter, in an archive – is a clearly literate way of dealing with the object.¹³ I do not know of any cases in which twigs have been preserved as evidence without a charter. But then, without the literate system of preserving written legal records, this would pose difficulties. How could you have told one twig from another? What we see here, then, is the combination of several methods of supplying evidence. It is not as if the literate method is replacing the non-literate one. It is simply one ‘layer’ of evidence added to another. The monks of Cluny apparently used every means at their disposal to secure their possessions.

Let us try to put things into a wider perspective. How representative are these two charters? They illustrate only one case, and in Cluny alone there have been thousands more, even if only a relatively small amount of the charters

¹³ Michael Clanchy has notably dealt with this topic in his lecture “Objects as charters” (Leeds, International Medieval Congress, 10 July 2001); see also his *From Memory to Written Record*, pp. 254–259.

produced in the course of these cases has been preserved as originals. This is a peculiar case, though, with its two charters sewn together and with the twig attached to them. As far as the interpolations are concerned, a quick perusal of the first volumes of the new facsimile edition by Atsma and Vezin of the tenth-century charters of Cluny suffices to see that there are more charters with interpolations and additions.¹⁴ This state of affairs corresponds with the ideas expressed by Barbara Rosenwein in her book on the social meaning of Cluny's property, *To Be the Neighbor of Saint Peter*. She observed a continuous series of renegotiations and renewals of donations between the local landholding aristocracy and the monastery, which was dedicated to Saint Peter.¹⁵ The interpolations in the other Cluny charters may be read, as those in our case, as traces of these renegotiations.

How, then, do our two charters fit into the larger historical development of the role of charters as written evidence? To De Boüard they suggested the disappearance of charters as legal evidence in France. Current wisdom on this topic is still influenced by the work of Georges Duby, even if his conclusions have recently been challenged. Duby claimed that, as the public courts that might have enforced written evidence were disappearing, the charters disappeared as written evidence as well. Their place was taken – unless they were replaced by decisions based on brute force – by negotiated settlements at which compromises were reached without recourse to written evidence.¹⁶ I have argued elsewhere that this view does not do justice to the evidence found in the hundreds of extant judicial charters from three key regions. There was never as clear an opposition as suggested by Duby between legal decisions reached in courts using written evidence whenever such evidence was available on the one hand, and negotiated settlements reached out of court and ending in a compro-

¹⁴ The following charters contain erasures, interpolations and additions other than simple corrections or precisions: *Les plus anciens documents originaux de l'abbaye de Cluny*, 1, p. 104, No. 24; 1, p. 122, No. 30; 2, p. 25, No. 32; 2, p. 46, No. 37; 2, pp. 96-99, No. 50; 2, pp. 113-115, No. 54; 2, pp. 128-129, No. 59; 3, pp. 21-23, No. 61; 3, pp. 62-64, No. 72; 3, pp. 79-81, No. 78; 3, pp. 85-87, No. 80; 3, pp. 89-91, No. 90. An investigation of these interpolations using the facsimile edition might be interesting.

¹⁵ ROSENWEIN, *To Be the Neighbor of Saint Peter*.

¹⁶ Notably J.-P. POLY and E. BOURNAZEL, *La mutation féodale, X^e-XII^e siècle*, 2nd edn. (Paris, 1991). For the first most outspoken criticism by Dominique Barthélemy, see his article collection *La mutation de l'an mil a-t-elle eu lieu? Servage et chevalerie dans la France des X^e et XI^e siècles* (Paris, 1997). For a thorough survey of this matter and for criticism of Duby, see S.D. WHITE, "Tenth-century courts at Mâcon and the perils of structuralist history: Re-reading Burgundian judicial institutions", in: *Conflict in Medieval Europe: Changing Perspectives on Society and Culture*, ed. W.C. BROWN and P. GÓRECKI (Aldershot, 2003) pp. 37-68.

In nomine summe & indiuidue trinitatis nos fr̃ Odulric' Causfred' cu' exhereditariis
 & p̃terib; nris donam' do & sc̃is eius aptis l̃iro & l̃aulo ad locū cluniacū p̃medio
 anime Wicherdi consanguinei nri aliquid de sua hereditate que sita ē in uilla ci
 uignono hoc ē suā parte que sibi euemebat exure magis in ipsa uilla
 Donam' x̃ia quinda franchisiam quā ip̃e quere libat seruis sc̃i p̃sri hoc est Cus
 lardo & heredib; eius de quada sua hereditate que sita ē in rufico. Faciant
 aut abhodie & deinceps quod melius & utilius de his omib; iudicauerint
 sine aliquo contradicente. Ce ut firmū p̃maneat manib; propriis firmam'
 restiq; roboranda tradim; S. Odulrici. S. Causfredi. S. Iufeme. S. Cind' d.
 9. Donam' quoq; una uilla Teciam nomine. S. Iodocummi. S. Wilibergis. S. Brap
 S. Wicherdi. S. Ogeri. S. Marini. S. Idini. S. Acharidi. S. Confratani. S. Machina
 S. B. nardi. S. Wisti. S. Tecne. S. Agnes
 Donamus eadem q̃ dēiam quod est infra clausum nrm̃ uniuscuius p̃medio anime Wicherdi & p̃soluone
 S. Machina.

ise without recourse to written evidence on the other.¹⁷ Already in the Carolingian period, disputes over property very often ended in the compromise of negotiated settlements, even if the evidence about such settlements was written down. Written evidence very often did not win the case. Often other ‘arguments’ were used too, such as brute force, intimidation, or the consideration by one party that it might be wise and socially beneficial for that party not to get its way if that meant being at odds with one’s neighbours. We should remember that in many countries most civil lawsuits still end in settlements out of court. So we should not apply a strictly legalistic attitude to our ancestors, knowing that things do not always work that way in our society either. What these litigants did have in common with us, however, was a sense of what was right, of what did or did not belong to someone. Whatever might be negotiable, they used all means, written or otherwise, to get what was theirs by right – or as much of it as they could. In the early and central Middle Ages this ‘amount’ was often linked to their position and social honour. They might relinquish their claims on properties, but not without getting something in exchange – in public.¹⁸

Previous two pages:

Fig. 1 Charter of donation, c. 1030-c. 1045. Paris, Bibliothèque Nationale de France, Collection de Bourgogne vol. 77, No. 82-1. After *Les plus anciens documents originaux de l'abbaye de Cluny*, ed. H. ATSMA and J. VEZIN avec la collaboration de S. BARRET, 3 vols. (Turnhout, 1997-2002), 3, p. 91.

Fig. 2 Charter-notice, 30 June c. 1047/1048. Paris, Bibliothèque Nationale de France, Collection de Bourgogne vol. 77, No. 82-2. After *Les plus anciens documents originaux de l'abbaye de Cluny*, p. 93.

¹⁷ K. HEIDECKER, “Emploi de l’écrit dans les actes judiciaires: Trois sondages en profondeur: Bourgogne, Souabe et Franconie (VIII^e-début XII^e siècle)”, in: *Les actes comme expression du pouvoir au Haut Moyen Age*, ed. M.-J. GASSE-GRANDJEAN and B.-M. TOCK (Turnhout, 2003), pp. 125-138.

¹⁸ B.-M. TOCK, *Scribes, souscripteurs et témoins dans les actes privés en France: VII^e-début XII^e siècle* (Turnhout, 2005) appeared after this article was completed; unfortunately, the results of this fundamental work could therefore not be taken into account.

Illustration and Persuasion in Southern Italian Cartularies (c. 1100)

BRIGITTE RESL

Medieval cartularies offer various perspectives from which to examine ‘trust in the written word’, starting with the very nature of charters and the extent to which they were trusted. It is also worthwhile to consider the purpose of copies, to investigate the extent to which trust in them was different from trust in originals, and the ways in which they might indeed have reinforced trust in originals.¹ How could trust in copied charters be established, guaranteed or enhanced? This essay will argue that compilers of cartularies and authors of chronicle-cartularies devised strategies to persuade readers to trust the words written down in such compilations. Cartularies fulfilled a host of rather varied functions, differing from case to case, and frequently they performed several at once. They preserved documents about properties and rights, but also told an institution’s history or displayed its tradition and power. On these different levels, trust was involved in a variety of ways. These included trusting the rights documented, trusting a sometimes centuries-old tradition, trusting social memory and symbolic capital, or simply trusting the words written down in a form that transcended genres, from legal documents to historiography, from letters to hagiography. To achieve these aims, authors and compilers strategically employed various tactics to persuade their audiences to trust the works’ contents. Illustration was one of the devices used.

¹ See M. PARISSÉ, “Les cartulaires: Copies ou sources originales?”, in: *Les Cartulaires: Actes de la table ronde organisée par l’Ecole nationale des chartes et le G.D.R. 121 du C.N.R.S.*, ed. O. GUYOTJEANNIN, L. MORELLE and M. PARISSÉ (Paris, 1993), pp. 503-511, for a summary of the characteristics of cartularies as historical sources.

To exemplify this, a sample of manuscripts has been selected that originate from a group of monasteries in southern Italy, i.e. Santa Sophia in Benevento, San Vincenzo al Volturno, and Farfa. The codices were produced within a few decades around the year 1100, in similar situations or even as a result of direct communication or contest between the institutions concerned.² The codices also share another characteristic: they contain, *inter alia*, copies of charters that did not exist in authentic single-sheet documents at the time when the compilations were made. The authors therefore had a particular need to devise persuasive strategies.

The original charters were missing for various reasons. Charters and previous cartularies were sometimes lost in turbulent times. In San Vincenzo, e.g., documents were destroyed when the Saracens raided and burned the monastery.³ More importantly, in many cases single-sheet charters had never existed, as the legal transactions they referred to had been carried out without drawing up any written documents. Although charters were obviously used in the eighth century, they had been hardly as ubiquitous as they had become by c. 1100.⁴ Certain legal transactions had been carried out as rituals which did not require written documentation. This is well documented for practices such as the manumission of slaves in Lombard Italy.⁵ Finally, fabricating a copy could simply

² The *Liber instrumentorum seu chronicon* of San Clemente of Casauria (MS Paris, Bibliothèque Nationale, lat. 5411) has not been included in the sample as it was compiled between 1170 and 1182 and therefore stands clearly outside the considered time frame. The context of text and illustration in this codex has been recently analyzed by M. SPÄTH, *Verflechtung von Erinnerung: Bildproduktion und Geschichtsschreibung im Kloster San Clemente a Casauria während des 12. Jahrhundert* (Berlin, 2007: *Orbis mediaevalis* 8) (forthcoming). Other chronologically close manuscripts with similar contents from the area are the *Regestum* of Sant'Angelo in Formis (MS Montecassino, Archivio dell'Abbazia, Regesto 4) and the *Registrum Petri Diaconi* (MS Montecassino, Archivio dell'Abbazia, Regesto 3). See M. IGUAÑEZ, *Regesto di Sant'Angelo in Formis* (Montecassino, 1925); H. HOFFMANN, "Chronik und Urkunde in Montecassino", *Quellen und Forschungen aus italienischen Bibliotheken und Archiven* 51 (1971), pp. 179-196.

³ This event is repeatedly referred to in the chronicle-cartulary, especially in the *Ystoria decollatorum monachorum*, the narration of the killing of 900 monks that is incorporated into the text: *Chronicon Vulturense del monaco Giovanni*, ed. V. FEDERICI, 3 vols. (Rome, 1925-1938: *Fonti per la storia d'Italia* 58-60), 1, pp. 347-365.

⁴ See P.J. GEARY, "Oblivion between orality and textuality", in: *Medieval Concepts of the Past: Ritual, Memory, Historiography*, ed. G. ALTHOFF, J. FRIED and P.J. GEARY (Washington and Cambridge, 2002), pp. 111-122, for a well-balanced summary of the debate about the varying standards of pragmatic literacy in early medieval legal procedures.

⁵ B. POHL-RESL, "Legal practice and ethnic identity in Lombard Italy", in: *Strategies of Distinction: The Construction of Ethnic Communities, 300-800*, ed. W. POHL and H. REIMITZ (Leiden, 1998: *The Transformation of the Roman World* 2), pp. 205-219, at pp. 215-216. See N.

have been an act of forgery, a way of promoting trust in invented claims. The cartularies were often compiled at moments when their compilers were especially tempted to invent documents.⁶ The best example of this practice from the region under discussion is the *Registrum Petri Diaconi*, from Montecassino.⁷ While some obvious forgeries are included among the examples selected for study here, in this essay the emphasis is not on them but on texts that purport to be reproductions of single-sheet documents that had gone missing, 'reproductions' meant to prove existing legal rights and possessions.

Whatever their precise intention in fabricating a copy without an original, the authors knew the precarious state of their claims and were likely to be interested in enhancing the credibility of their products. The manuscripts included in our analysis were supposed to document their institutions' history and property from their very beginnings, reaching back several hundred years. There had been rivalry between these institutions at various stages, and they all had been involved in a series of conflicts with lay and ecclesiastical authorities.⁸ Under these circumstances it had repeatedly been necessary to invent claims to rights and the documents needed to support them. At the same time many authentic documents proving extant legal claims had been lost in the centuries since they had been written. Consequently, the history and legal basis of a community's accumulated properties and rights were hardly transparent even to twelfth-century authors. They all faced the same challenge, however: charters in the shape of single-sheet documents were by now the expected form of evidence to support legal claims. Cartularies could not serve as replacements for such charters in legal challenges. It was still preferable, however, to possess copies of charters than not to be able to refer to any written documentation at all when it came to proving claims, e.g. in rivalries with competing institutions or in disputes with local noblemen.

To improve the knowledge of rights and possessions was only one of the uses to which a cartulary could be put. Apart from this, it served to display institutional tradition and memory, both of which played key roles when it came to attracting external support and funding. Often communities resorted to the compilation of a cartulary in difficult times as a strategy to help increase

EVERETT, *Literacy in Lombard Italy, 568-774* (Cambridge, 2003), for the most recent discussion about the levels of literacy in Lombard Italy.

⁶ For more examples, see *Fälschungen im Mittelalter: Internationaler Kongreß der Monumenta Germaniae Historica, München, 16.-19. September 1986*, 4 vols. (Hannover, 1988: *Monumenta Germaniae Historica: Schriften* 33.1-4).

⁷ HOFFMANN, 'Chronik und Urkunde in Montecassino', pp. 179-196.

⁸ W. POHL, *Werkstätte der Erinnerung*, pp. 153-156.

donations. Pierre Toubert argued that the threats from new types of institutions, such as the Cistercian foundations, were a reason for established monasteries such as San Vincenzo and Farfa to compile collections reflecting their long-standing tradition. He also stressed that the authors of these cartularies were in fact writing the histories of their institutions.⁹

The quality and nature of trust in legal documents differs from that of trust in texts transmitting memory and history. However, in both cases the manuscripts and the copies of documents they contain played a significant role, and it was vital that audiences trusted the contents and recognised them as true reflections of events long past. To achieve this, a variety of tactics were employed to persuade readers to trust the copies. One of the most obvious ones was the use of rhetoric, frequently deployed at the outset, in prefaces. Such prefaces sometimes sought to illustrate the process of compilation. They might refer to a superior authority's commission, establishing a link with the institution's patron saint or with God. In doing so, authors invoked their audiences' acceptance of the truth presented in their volumes.¹⁰

Gregory of Catino's cartularies have been labelled the 'stronghold' of Lombard diplomatic.¹¹ He certainly had many original single-sheet charters to hand when he composed the various versions of Farfa's cartularies.¹² Nevertheless, the earliest authentic documents had been lost, as Gregory was at pains to ex-

⁹ P. TOUBERT, *Les Structures du Latium médiéval*, 2 vols. (Rome, 1973: *Bibliothèque des Écoles Françaises d'Athènes et de Rome* 221), 1, pp. 79-83.

¹⁰ P.J. GEARY, "Auctor et Auctoritas dans les cartulaires du haut moyen âge", in: *Auctor et Auctoritas: Invention et conformisme dans l'écriture médiévale: Actes du colloque tenu à l'Université de Versailles-Saint-Quentin-en-Yvelines (14-16 juin 1999)*, ed. M. ZIMMERMAN (Genève, 2001: *Mémoires et documents de L'École des Chartes* 59), pp. 61-71.

¹¹ C. BRÜHL, *Studien zu den langobardischen Königsurkunden* (Tübingen, 1970: *Bibliothek des Deutschen Historischen Instituts in Rom* 33), pp. 210-212. For Gregory of Catino, see M. STROLL, *The Medieval Abbey of Farfa: Target of Papal and Imperial Ambitions* (Leiden, New York and Köln, 1991), pp. 7-13; T. KÖLZER, "Codex libertatis: Überlegungen und Funktion des 'Regestum Farfense' und anderer Klosterchartulare", in: *Atti del IX^o Congresso di Studi sull'Alto Medioevo* (Spoleto, 1983), pp. 609-653, at pp. 611-618; H. ZIELINSKI, "Gregor von Catino und das Regestum Farfense", *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 55-56 (1976), pp. 361-404.

¹² Gregory composed a total of four versions of chronicle-cartularies between 1092 and 1132. They are edited as: *Il Regesto di Farfa compilato da Gregorio di Catino*, ed. I. GIORGI and U. BALZANI, 5 vols. (Rome, 1879-1914); *Liber largitorius vel notarius monasterii Pharphensis*, ed. G. ZUCCHETTI, 2 vols. (Rome, 1913-1932: *Regesta chartarum Italiae* 11, 17); *Il Chronicon Farfense di Gregorio di Catino*, ed. U. BALZANI, 2 vols. (Rome, 1903: *Fonti per la storia d'Italia* 33-34); *Il "liber Floriger" di Gregorio di Catino. Parte 1: testo*, ed. M.T. MAGGI BEI (Rome, 1984: *Miscellanea della società Romana di storia patria* 26). Cf. KÖLZER, "Codex libertatis", pp. 611-618, with a summary of the previous discussion.

plain in the *Regestum Farfense*.¹³ He had his *exemplar* of a letter by Duke Faroald II from the beginning of the eighth century, in which the duke asked Pope John VII to grant certain privileges to the monastery, with the pope's response. This, he pointed out, was the basis for his copy of the earliest written materials with which he started his collection of documents.¹⁴ While modern editors have seen no reason to doubt the authenticity of these documents,¹⁵ Gregory himself was not wholly convinced. He found it necessary explicitly to explain to the readers that there was no reason to believe the document had not existed in the given form: "*cuius ita exordium procul dubio fore creditur*".¹⁶ The duke's letter was used as a preface to the copy of the papal privilege. It was a means to lend authenticity to the copy of this vital document, since it did not exist as an original single-sheet document in Gregory's time.¹⁷

Gregory of Catino carefully constructed a historical context in which to set his papal privilege. Anyone who had doubts about the authenticity of the content of the copy was to be convinced by its textual environment. Similar strategies were applied in cases of straightforward forgeries, the most renowned example being Peter the Deacon's cartulary for Montecassino. In one royal privilege, easily detectable as a forgery on diplomatic grounds nowadays (and probably just as doubtful at the time it was fabricated), Peter claimed that Paul the Deacon had written the original charter as a royal notary.¹⁸

Another tactic employed in these cartularies to enhance the credibility of the copies was illustration. The cartulary-chronicle of San Vincenzo al Voltur-

¹³ "*Itaque cum plurima ab illo edita huic monasterio antiquiori consumpta sunt vetustate praecepta et per monasterii olim accidentem destructionem oblivioni sint tradita*" (MS Vatican, Vat. Lat. 8487, f. 12v; *Regesto di Farfa*, ed. GIORGI and BALZANI, 2, p. 22; cf. *Chronicon Farfense*, ed. BALZANI, pp. 137-138).

¹⁴ *Regesto di Farfa*, ed. GIORGI and BALZANI, pp. 22-25. Faroald's letter is also edited in: *Codice Diplomatico Langobardo* 4.1, ed. C. BRÜHL (Rome, 1981: *Fonti per la storia d'Italia* 65), "appendice: epistola (705)", pp. 115-117.

¹⁵ In the introduction to the edition of the letter, the editor argues that Gregory's unusual reference to the *exemplar* has to be regarded as proof of the document's authenticity (*ibid.*, p. 116). See also STROLL, *The Medieval Abbey of Farfa*, p. 17.

¹⁶ *Regesto di Farfa*, ed. GIORGI and BALZANI, p. 22. *Chronicon Farfense*, ed. BALZANI, pp. 135-136.

¹⁷ Hans Hubert Anton argues that the papal privilege is authentic: H.H. ANTON, *Studien zu den Klosterprivilegien der Päpste im frühen Mittelalter* (Berlin and New York, 1975), p. 60. For our discussion, the question of authenticity is less relevant. What matters here, however, is that there was no original single-sheet charter available for Gregory as a basis for his copy, and this fact clearly troubled him.

¹⁸ *Codice Diplomatico Langobardo* 3.1, ed. C. BRÜHL (Rome, 1973: *Fonti per la storia d'Italia* 64), n. 34, pp. 209-218 (761, December, Pavia), referring to Paul the Deacon at p. 218.

no, the *Chronicon Vulturnense*, offers an ideal example.¹⁹ It was written by a monk called Johannes, probably between 1119 and 1124.²⁰ The text narrates the monastery's history, but it also includes copies of the relevant charters. The manuscript contains the institution's own version of the story of its foundation, a story often written and rewritten. It exists in several versions, which were produced not only by monks from San Vincenzo and from other ecclesiastical communities, but also by antiquarians and historians.²¹

According to San Vincenzo's own version of the story, the monastery had been founded c. 700 by three noblemen called Paldo, Taso and Tato. They had set off from Benevento towards Francia with the intention of joining a monastic community. One of their first stops had been the monastery of Farfa. There, they became convinced that it would be more profitable to found a monastery in the area near the spring of the Volturno.²² According to the earliest of the copied charters, the duke of Benevento, Gisulf I, supported this foundation with a very generous donation of properties.²³ The text of this donation survives only in Johannes's copy or in later copies, not as an authentic single-sheet document. The donation was obviously very important, which is why the author of the chronicle not only mentioned it in his narrative, but also found it worthwhile to quote the complete text of the legal document. Furthermore, an illustration highlighted the episode in the manuscript (fig. 1). It shows the three founders standing in the doorway of their monastery. Duke Gisulf is standing outside the building, addressing the three monks. He hands them a charter with his left hand, while making an affirmative gesture with his right hand. The charter is shown in the form of a roll of parchment that is partially unfurled. The invocation is written into the available space, repeating the wording of the copied text. One of the three monks steps outside the doorway to receive the document.²⁴

This image serves various purposes. At the most basic level it is a means of decorating the cartulary and displaying the institution's prestige and long-standing tradition. Adam Kosto has shown how the illustrations in a late twelfth-century Catalan cartulary similarly helped the manuscript to fulfil its various

¹⁹ MS Vatican, Barb. Lat. 2724, ed. as *Chronicon Vulturnense del monaco Giovanni*. For the author and for dating the manuscript see H. HOFFMANN, "Das Chronicon Vulturnense und die Chronik von Montecassino", *Deutsches Archiv* 22 (1966), pp. 179-196, at p. 183.

²⁰ HARTMANN, "Chronicon Vulturnense", p. 181.

²¹ F.J. FELTEN, "Zur Geschichte der Klöster Farfa und San Vincenzo al Volturno im achten Jahrhundert", *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 62 (1982), pp. 1-58; POHL, *Werkstätte der Erinnerung*.

²² *Chronicon Vulturnense*, ed. FEDERICI, 1, pp. 107-114, pp. 126-130.

²³ *Chronicon Vulturnense*, ed. FEDERICI, 1, pp. 130-139.

²⁴ MS Vatican, Barb. Lat. 2724, f. 47v. *Chronicon Vulturnense*, ed. FEDERICI, 1, p. 132.

functions, e.g. as “an expression of power”.²⁵ Comparing the illustrations in the cartularies of San Vincenzo, Santa Sophia of Benevento, Sant’Angelo in Formis, and San Clemente in Casauria, Giulia Orofino came to the conclusion that in San Vincenzo the illustrations were meant to recall the institution’s origins and its ‘golden age’, celebrating the memory of its abbots, underlining its prestige and defending its independence from Farfa.²⁶

The conflict with Farfa certainly has to be considered when analysing the background of the *Chronicon Vulturnense*. San Vincenzo’s version of the foundation legend, and in consequence its autonomy, was contested by Farfa.²⁷ For Paldo, Taso and Tato not only play prominent roles in San Vincenzo’s historical narratives, they also appear in Farfa’s chronicle-cartulary. According to one of the older versions of Farfa’s own account of its early history, it was the first abbot of Farfa, Thomas, who was responsible for the foundation of San Vincenzo. He asked Duke Gisulf to provide land on which Farfa could establish a monastic institution, and subsequently established Paldo as first abbot there.²⁸ This is not the place to discuss this controversy; from the point of view of the early twelfth-century chroniclers at both institutions, it was clear that certain links had existed between Farfa and San Vincenzo at the time of the latter’s foundation. They believed different versions of the history of the relationship, and the monks of San Vincenzo felt obliged to enhance the credibility of their claims by fabricating a copy of a non-extant original single-sheet charter. They depended on trust in this document to sustain the legal situation set out in it, and sought to enhance this trust with a visual depiction of the event. The picture thus represents San Vincenzo’s version. Apart from trying to corroborate the claims, it created a representation of the missing object, the charter that would have contained the crucial legal dispositions.

The rivalry between the two institutions is only one context within which the illustrations have to be read. San Vincenzo’s chronicle-cartulary also provided the only written memory of the monastery’s history. As there were not many documents that still survived at the time of the monk Johannes, his comprehensive collection was a remarkable effort. But many gaps still had to be filled, and it is no surprise that illustrations were a favourite means to achieve this. The illustrations created a memorable vision of events that were hardly, if

²⁵ A.J. KOSTO, “The *liber feudorum maior* of the counts of Barcelona: The cartulary as an expression of power”, *Journal of Medieval History* 27 (2001), pp. 1-22.

²⁶ G. OROFINO, “L’apparato decorativo”, in: *Chronicon Sanctae Sophiae* (Vat. Lat. 4939), ed. J.-M. MARTIN (Rome, 2000: *Fonti per la storia d’Italia* 33), pp. 137-186.

²⁷ FELTEN, “Farfa und San Vincenzo”.

²⁸ *Chronicon Farfense*, ed. BALZANI, 1, pp. 9-16 and pp. 139-143.

at all, documented elsewhere; it was still essential, however, to foster belief in them.

Around 1100, the appropriate medium to prove San Vincenzo's version of the story, to convince benefactors of the old age and long-standing tradition of the institution, and to guarantee the monastery's independence, would have been a single-sheet charter containing the same information as the copy in the *Chronicon Vulturnense*. Modern diplomatic analysis of the text makes clear that such a charter had never existed, at least not in the form in which the text is transmitted.²⁹ Mistakes and interpolations, however, would not necessarily have been noticed by audiences at the beginning of the twelfth century. Their main concern was the form of transmission; they would have been concerned by the lack of a single-sheet document. Illustrating the process in which written proof in the required format is handed over is not simply a means of reminding the viewers that the transaction had indeed taken place. The illustration was there specifically to recall the crucial object, the single-sheet document, the missing referent of the chronicle's text. Visualisation of the missing objects enhanced their remembrance and may have helped to create mental images of objects that had never existed in the first place.

The 'foundation charter' was only one of the elusive objects or moments represented visually in the *Chronicon Vulturnense*. People could also be summoned up in this way. One of San Vincenzo's most famous early abbots, Authpert, was depicted in the cartulary (fig. 2).³⁰ Immediately afterwards followed the text of a forged charter that mentioned his name.³¹ The connection between recalling the memory of an important figure in the monastery's early history and the use of his name to lend credibility to a fabricated document is particularly obvious in examples like this. Again, the connection is backed by illustrations. San Vincenzo's chronicle-cartulary is full of similar devices. Always the copies can easily be detected as forgeries through diplomatic analysis. However, they documented legal claims the monastery felt justified to make.

The illustrations in a contemporary manuscript from the same region can also be interpreted in this way. Giulia Orofino analysed the illuminations in the so-called *Chronicon sanctae Sophiae* in the new edition of the codex by Jean-Marie Martin. She showed convincingly that the illuminations were used to exemplify the monastery's tradition and memory; they were vital tools for proving its autonomy and for securing its property against claims by other

²⁹ *Chronicon Vulturnense*, ed. FEDERICI, 1, pp. 133-136 with n. 3.

³⁰ MS Vatican, Barb. Lat. 2724, f. 64r.

³¹ *Chronicon Vulturnense*, ed. FEDERICI, 1, pp. 183-186.

ecclesiastical communities or by the local nobility.³² While this is crucial for the understanding of the illustrations, it is not the only aspect to be considered. As with the *Chronicon Vulturense*, the actual moment of the handing over of the charter is emphasised. This motif appears in several cases in the same manuscript. Especially significant is the example of the donation of mills near Ponticello on the river Calore by Pope Gelasius. Here, the entire course of the transaction is depicted, from the pope handing over the charter to the monastery's representatives to the charter's finally being passed on to the venerable abbot (fig. 3).³³ The images not only document the importance of the property concerned, its author makes a sustained effort to persuade those who saw the cartulary that a single-sheet document had in fact existed and had been passed on.

The monasteries of San Vincenzo and Santa Sophia in Benevento shared the same basic problem: both had to prove their independence against the claims of other institutions. San Vincenzo had to fight off Farfa's claims, while Santa Sophia was under threat from Montecassino's insistence on its rights over the monastery and all its properties.³⁴ As with San Vincenzo, by the year 1100 the monks of Santa Sophia no longer owned the original documents proving their rights. In both these cases, and in similar cases which cannot be discussed here, the cartularies were used to prove these rights and the autonomy of the institutions.³⁵ Visualisations were used to persuade readers of the authenticity of the text through the portrayal of the missing objects to which the text referred: the original single-sheet documents.

The authors used a practice familiar at the time in visual art. "Uncultivated minds rise to the truth through the help of concrete images", was a contemporary explanation given by Abbot Suger of Saint Denis for the uses of art and illustration in the church, alluding to a long-established tradition.³⁶ Images help

³² OROFINO, "L'apparato decorativo", p. 143.

³³ MS Vatican, Vat. Lat. 4939, f. 151r. *Chronicon sanctae Sophiae*, ed. MARTIN, No. v, 6, pp. 645-647. Cf. OROFINO, "L'apparato decorativo", pp. 178-179.

³⁴ POHL, *Werkstätte der Erinnerung*; G.A. LOUD, "Politics, piety and ecclesiastical patronage in twelfth-century Benevento", in; ID., *Montecassino and Benevento in the Middle Ages: Essays in South Italian Church History* (Aldershot, 2000), ix, pp. 283-312.

³⁵ See OROFINO, "L'apparato decorativo", pp. 150-158, for a summary of twelfth-century cartularies produced in the area.

³⁶ "*Mens hebes ad verum per materialia surgit*" (Suger, *Liber de rebus in administratione sua gestis* c. 27, ed. and tr. E. PANOFKY (Princeton, 1948), p. 48). Cf. J. FENTRESS and C. WICKHAM, *Social Memory* (Oxford, 1992), pp. 49-50; E. PANOFKY, *Meaning in the Visual Arts* (London, 1970). For a thorough discussion of the links between rhetoric, images, and memory, see M. CARRUTHERS, *The Craft of Thought: Meditation, Rhetoric, and the Making of Images*,

memory. The illustrations helped the audiences to see their charters as part of a narrative. They allowed them to visualise past events and people who had played significant roles in the monasteries' histories. When the images portray the handing over of charters, they remind the readers and users of cartularies that behind the copied words lay the reality of an object, of an authentic single-sheet document which no longer existed.

There is an important chronological dimension to the choice of illustrations. Even the studiously accurate copyist Gregory of Catino allowed for the practice of using images to support memory. In the *Regestum Farfense* he copied charters in chronological order, following the reigns of the monastery's abbots. The cartulary does not have many illustrations, but it is significant that the early abbots get a visual portrait. Doubts about the authenticity of the copies of charters dating from their time were more likely to be raised, as in the example of Duke Faroald II's letter and the papal privilege. In this case not only the legendary Abbot Thomas, in whose reign all of this supposedly took place, is shown in a medallion, but the duke himself is also portrayed (fig. 4). This is quite exceptional within the cartulary. It probably offers another instance of lending verisimilitude to what might otherwise have been a less than convincing narrative.³⁷ Interestingly, there are no portraits of the later abbots, even if some of them were very important in the monastery's history. The need for portraits of persons who had lived in a more recent past may have been felt less acutely, as their memory may still have been very much alive. No one needed visual assistance to remember their existence. Similarly, the depictions of charters in the cartularies of San Vincenzo and Santa Sophia focus on documents or transactions from the more distant past. The last emperor depicted in the *Chronicon sanctae Sophiae*, e.g., is Henry II, who had died about one hundred years before the cartulary was written.³⁸

The authors of these twelfth-century chronicle-cartularies distinguished between cases from more recent times, when there was an ample supply of other forms of evidence – witnesses, extant charters, and vivid memory shared by the community – and those of earlier times, where visualisation helped to inspire faith in a cloudy and at times impenetrable past. More specifically, they enhanced trust in texts that were only available to them as copies, pale reflections of their more appropriate and expected form of transmission as original

400-1200 (Cambridge, 1998).

³⁷ MS Vatican, Vat. Lat. 8487, f. 12v.

³⁸ MS Vatican, Vat. Lat. 4939, f. 132r. OROFINO, "L'apparato decorativo", pp. 176-177.

single-sheet documents. It is not surprising, therefore, that these single-sheet documents are often at the centre of the illustrations in cartularies.



Fig. 1 Duke Gisolf and the three founders of San Vincenzo al Volturno: MS Vatican, Barb. Lat. 2724, f. 47v. © Biblioteca Apostolica Vaticana.



Fig. 2 Abbot Authpert of San Vincenzo al Volturno: MS Vatican, Barb. Lat. 2724, f. 64r (after *Chronicon Vulturnense del monaco Giovanni*, ed. V. FEDERICI, 3 vols. (Rome, 1925-1938: *Fonti per la storia d'Italia* 58-60), 1, p. 182).



Fig. 3 Pope Gelasius concedes mills near Ponticello to the monastery of Santa Sophia in Benevento: MS Vatican, Vat. Lat. 4939, f. 151r. © Biblioteca Apostolica Vaticana.



Fig. 4 Abbot Thomas of Farfa; Duke Faroald II: MS Vatican, Vat. Lat. 8487, f. 12v (after *Il Regesto di Farfa compilato da Gregorio di Catino*, ed. I. GIORGI and U. BALZANI, 5 vols. (Rome, 1879-1914), 2, Pl. 2).

Trust in Writing: Charters in the Twelfth-Century County of Holland

J.W.J. BURGERS

In the Middle Ages, and long afterwards, perhaps no other type of written document was trusted more universally than the charter. According to the definition used in diplomatics, a charter is a legal deed, written as a separate text, which by itself may serve as evidence of the right or grant it contains.¹ The charter could function as a legal document *because* it was generally trusted as such: its intrinsic trustworthiness was its *raison d'être*. It distinguished itself from other kinds of documents because of certain more or less standardised characteristics. These specific properties include the seal, the layout, the type of script and the structure of the text. Certain parts of the text of charters are usually written in stereotypical formulas, which can vary widely but not endlessly. These formulas, labelled with names like *invocatio*, *intitulatio*, *notificatio* and so on, are well known to everybody acquainted with diplomatics. For example, many charters begin with an *invocatio* such as “*In nomine Domini amen*”, and go on with a *notificatio* such as “*Ego NN notum facio quod...*”.²

That people indeed put their trust in charters is attested by the huge success of the genre. From the early Middle Ages, charters were issued in papal and royal chanceries, and during the thirteenth century in many parts of Europe an ever increasing number were also written in various other places: by lesser temporal and spiritual lords such as counts and bishops, in convents great and

¹ This definition of a charter is taken from: J.G. KRUISHEER, *De oorkonden en de kanselarij van de graven van Holland tot 1299*, 2 vols. ('s-Gravenhage and Haarlem, 1971: *Hollandse Studiën* 2), 1, p. 4. A recent manual of diplomatics: O. GUYOTEJEANNIN, J. PYCKE and B.-M. TOCK, *Diplomatique médiévale* (Turnhout, 1993: *L'atelier du médiéviste* 2).

² Diplomatic formulas are treated in: KRUISHEER, *De oorkonden*, pp. 70-74.

small, in the towns, at small judicial courts in the countryside, and finally by a wide range of private persons endowed with social status but hardly ever with any public authority to match.³

The widespread acceptance of the charter in the later Middle Ages obscures the question of the beginnings of the charter at these lower levels of society, beginnings which should be situated roughly in the twelfth century. It is a problem why people who for centuries had relied on oral agreement and oral transmission by living witnesses to their grants, transactions and contracts, now began to turn to a specific type of written document to make sure their deeds would be legally binding and enduring. To find an answer to this question it may be worth our while to study in detail the first development of diplomatic practice at the regional level. In the following this will be attempted for the county of Holland.

The Chronology of Pragmatic Literacy in the County of Holland

The beginnings of the county of Holland can be traced to the early tenth century, when local counts succeeded in gaining control over some areas in the western part of the modern Netherlands. One of their first concerns was the establishment of the Benedictine abbey of Egmond. There, from c. 980 onwards, monks were perpetually praying for the counts and their relatives, who had endowed the convent. The power of the dynasty was severely shaken during a political crisis in the eleventh century, but in the last quarter of that century the counts re-established their hold over the region. A long period of political and economic expansion followed.⁴

In recent years much research has been done concerning the development of pragmatic literacy in the county of Holland and Zeeland during the thirteenth century. By scrutinising the extant documentary sources from that period, mainly charters but also other records, by means of well-defined palaeographical and diplomatic methods, detailed knowledge could be obtained about the spread of administrative writing in the county.⁵ We now know that the count's

³ On the proliferation of the charter in thirteenth-century Europe, see: M.T. CLANCHY, *From Memory to Written Record: England 1066-1307* (London, 1979; cited from the 2nd edn., Oxford and Cambridge, Mass., 1993), pp. 44-80 (mainly in England), and: *Pragmatic Literacy, East and West 1200-1330*, ed. R. BRITNELL (Woodbridge, 1997).

⁴ A recent survey of the early history of Holland may be found in: *Geschiedenis van Holland*, 1, *Tot 1572*, ed. T. DE NIJS and E. BEUKERS (Hilversum, 2002).

⁵ Thirteenth-century diplomatics and pragmatic writing in Holland have been studied in:

chancery first came into being c. 1198, but that it existed without interruptions only from c. 1268, allowing it to develop into the hierarchical organisation that had come about in the 1290s. We know how the abbeys of Egmond and Middelburg influenced the writing of charters in the neighbouring districts; we know how, in the towns, from the 1260s onwards local scribes started to write legal deeds for the burgesses and simultaneously began to keep a civic administration, soon changing the language of their records and charters from Latin to Dutch. In view of this, it is remarkable that until recently no close study was made of the beginnings of this important institutional and cultural process, which in Holland must have started before the thirteenth century. Clearly, already before 1200 some writing was done in the abbey of Egmond. Not only books were produced, but charters as well, and at the turn of the century the monks had already developed a certain diplomatic practice of their own. How and when they had started this practice, and where their inspiration had come from, has long remained unknown.

Only recently a detailed study has been made of the beginnings of pragmatic literacy in Holland.⁶ To start with, a list was made of all the charters and other records issued or received in the county before the year 1200. This corpus consists of 45 texts. Of course, not all documents were written in Holland itself. As both parties involved in a juridical act or contract can produce charters, it usually takes diplomatic research to establish which party wrote the document.⁷ Only when both parties can be located in Holland, can we be certain *a priori*

KRUISHEER, *De oorkonden*; J.W.J. BURGERS, *De paleografie van de documentaire bronnen in Holland en Zeeland in de dertiende eeuw*, 3 vols. (Leuven, 1995: *Schrift en Schriftdragers in de Nederlanden in de Middeleeuwen: Paleografie, codicologie, diplomatiek* 1); E.C. DIJKHOF, *Het oorkondenwezen van enige kloosters en steden in Holland en Zeeland, 1200-1325* (Leuven, 2003: *Schrift en Schriftdragers in de Nederlanden in de Middeleeuwen: Paleografie, codicologie, diplomatiek* 3). For a synthesis, see: J.W.J. BURGERS, E.C. DIJKHOF and J.G. KRUISHEER, "De doordringing van het schrift in Holland en Zeeland in de tweede helft van de dertiende eeuw", in: *Wi Florens... De Hollandse graaf Floris V in de samenleving van de dertiende eeuw*, ed. D.E.H. DE BOER, E.H.P. CORDFUNKE and H. SARFATIJ (Utrecht, 1996), pp. 191-211. The process of the transition from Latin to the vernacular in charters and other documents in thirteenth-century Holland has been analyzed in: J.W.J. BURGERS, "De invoering van het Nederlands in de dertiende-eeuwse documentaire bronnen in Holland en Zeeland", *Tijdschrift voor Nederlandse taal- en letterkunde* 112 (1996), pp. 129-150.

⁶ J.W.J. BURGERS, "Oorkonden in Holland vóór 1200: De abdij van Egmond en het begin van het Hollandse oorkondenwezen" (forthcoming). Much of the following is based on the detailed account of the first diplomatic texts in Holland given there.

⁷ On the problem of determining of the place of origin of a charter, see J. KRUISHEER, "Kanzleianfertigung, Empfängeranfertigung und Anfertigung durch Dritte: Methodologische Anmerkungen anlässlich einiger neuerer Untersuchungen", *Archiv für Diplomatik, Schriftgeschichte, Siegel- und Wappenkunde* 25 (1979), pp. 256-300.

that a local clerk wrote the charter. In our corpus several documents are likely to have been produced outside the county. Sometimes this is even certain.

At a first glance the corpus can be divided into two distinct periods: 13 documents date from the years 889-993, while the others date from the twelfth century (two of these are slightly earlier). In the eleventh century, then, there is a long period without any documents. Most of the documents of the early, tenth-century group seem to have been written outside the county. Among these thirteen texts we find four royal charters, in which different counts are granted lands and rights. These documents have doubtless been produced in royal chanceries.⁸ Next, there are seven charters issued by the counts or their relatives for St. Peter's abbey in Ghent, five of which were also issued in this convent.⁹ There seems to be every reason to believe that these texts were conceived and written in the abbey. In the tenth century charter production was already flourishing there, something that certainly cannot be said of the territories to the north of Flanders.¹⁰ Finally, two documents remain which must indeed have been written locally, because they are grants to the abbey of Egmond made by Count Dirk I and his grandson, Count Arnulf.¹¹ These texts are transmitted in a fifteenth-century register of the abbey, and it is said that they were written originally in "the old gospel book", which is no longer extant.¹² Both texts show one diplomatic formula (a *notificatio* and a general address),¹³ but they probably were never issued as a charter; they were just entries in the gospel book. This is clear from the fact that a similar grant by Dirk II, written in the

⁸ A.C.F. KOCH, *Oorkondenboek van Holland en Zeeland tot 1299*, 1, *Eind van de 7e eeuw tot 1222* ('s-Gravenhage, 1970), Nos. 21, 28, 40, 55.

⁹ KOCH, *Oorkondenboek*, Nos. 39, 43, 45, 46, 52, 57, 62.

¹⁰ O. OPPERMAN, *Die älteren Urkunden des Klosters Blandinium und die Anfänge der Stadt Gent*, 2 vols. (Utrecht, 1928: *Bijdragen van het Instituut voor Middeleeuwse Geschiedenis* 11-12). Many aspects of this study, which is seriously flawed by the hypercritical attitude of its author, have been corrected by A.C.F. Koch in: M. GYSSELING and A.C.F. KOCH, *Diplomata belgica ante annum millesimum centesimum scripta*, 2 vols. (Brussels, 1950: *Bouwstoffen en studiën voor de geschiedenis en de lexicografie van het Nederlands* 1), 1, pp. 85-122.

¹¹ O. OPPERMAN, *Fontes Egmundenses* (Utrecht, 1933: *Werken uitgegeven door het Historisch Genootschap (gevestigd te Utrecht)*, 3e serie 61), pp. 61-62 and 63.

¹² OPPERMAN, *Fontes*, p. 61: "*Fundaciones, dotaciones et donaciones Hecmundensi monasterio collate a primitivis comitibus Hollandie necnon a ceteris fidelibus christianis, excerpte seu registrate de antiquo textu ewangeliorum, cuius antiquitatem et per consequens auctoritatem et volumen ostendit et littera demonstrat*".

¹³ The grant by Dirk I opens: "*Noverit omnium tam presentium quam per succedentium temporum curricula venientium Christifidelium temporum industria, qualiter ...*"; Arnulf's grant starts with the words: "*Notum sit etiam cunctis nunc natis atque iam nascituris ...*" (OPPERMAN, *Fontes*, pp. 61 and 63 respectively).

gospel book between the two grants mentioned above, shows no trace of any diplomatic formula.¹⁴ Furthermore, the wording of the *notificatio* of Arnulf's grant reads: "*Notum sit etiam*", and one cannot start a diploma with the words "Let it also be known". Probably these formulas were added later, when an Egmond scribe copied these texts and in the process embellished them with some diplomatic phrases. Further on we will encounter more instances of this practice.

We may therefore conclude that, apart from these few notes made in Egmond, there are no signs of pragmatic literacy in Holland during the tenth century, or, for that matter, during the eleventh. Only at the end of the rule of count Dirk v (1061-1091) do we find the first diplomatic texts. After that, charters and related documents are transmitted in ever growing numbers during the twelfth century. In the period 1083-1198 we count 32 of these texts. Again, however, many of them were made outside the county: charters issued by the pope, the emperor, the archbishop of Cologne, the abbot of Echternach or the count of Flanders.¹⁵ And palaeographical research has shown that five charters of the count of Holland for the Flemish abbeys of Ten Duinen and Ter Doest were written in these convents.¹⁶ In the end there remain 17 documents that were certainly or almost certainly produced in Holland itself during the twelfth century; these are listed chronologically at p. 126.

The first thing that catches the eye is that all but one of these 17 texts are somehow connected with the abbey of Egmond. The single exception is a deed by the count for the abbey of Middelburg in Zeeland, dating from the 1190s.¹⁷ Apart from that, we have seven deeds by the count, by the bishop of Utrecht and by a private person for Egmond abbey or its abbot,¹⁸ and six texts in which the abbot regulates the internal affairs of the convent.¹⁹ Even in three documents in which the abbey appears not to have been party to the legal transaction, the involvement of the convent is certain, as the texts have been transmitted in the Egmond archives.²⁰ A first, tentative conclusion must be that during the greater part of the twelfth century the abbey of Egmond was the only place

¹⁴ OPPERMAN, *Fontes*, pp. 62-63, beginning with the words "*Traditio, quam domnus Theodericus cum legitima coniuge sua nomine Hildegarda fecerunt ad predictum locum pro comparanda beatitudine, hec est: ...*".

¹⁵ KOCH, *Oorkondenboek*, Nos. 120, 123, 139, 140, 160, 189, 214, 226.

¹⁶ KOCH, *Oorkondenboek*, Nos. 215, 217, 218, 235, 236. The origin of these charters was studied in KRUISHEER, *De oorkonden*, pp. 30-31.

¹⁷ No. 16 of the list. This charter probably was written in that abbey.

¹⁸ Nos. 1, 2, 7, 8, 11, 12, 13.

¹⁹ Nos. 5, 6, 9, 10, 14, 17.

²⁰ Nos. 3, 4, 15.

in Holland where charters and other administrative documents were written. As we shall see, a closer study of the dossier will confirm this conclusion.

Twelfth-Century Informal Charters

The earliest texts in the group of documents originating in Holland are two deeds by Count Dirk v, granted to the abbey and to Abbot Stephen in or before 1083. Without doubt neither was issued as a formal charter. One grant was recorded in the gospel book mentioned before. It does not show any trace of the use of diplomatic formulary, but it does include a list of witnesses.²¹ The text is also transmitted in the famous forged diploma of “1083” (which incorporates the other eleventh-century deed as well), but with another list of witnesses. This forgery will be discussed more fully in a moment.²² Both documents, although lacking formal diplomatic characteristics, differ fundamentally from the earlier notes in the gospel book because of the presence of lists of witnesses. Moreover, it is possible that at least the second deed, which was not recorded in the gospel book, was written originally as a single-sheet document. These are the first texts produced in Egmond that do not only record a juridical act (this had been done before), but that were also intended as evidence of that act. In this respect both documents fulfil at least one basic condition that allows us to consider them as charters according to our definition. Here we witness the birth of charter-writing in Holland.

The following four documents originated in the time of the abbot Allard (1105-1120). All are handed down as later copies in the early thirteenth-century *Liber Sancti Adalberti* (which itself is only known from a transcript in the fifteenth-century register mentioned earlier). Two of these are deeds by the abbot, the first documents of this kind in Holland.²³ Both texts have a list of witnesses and show some diplomatic formulas. These formulas, however, seem a later addition by a scribe from Egmond. This is apparent from certain discrepancies in the text, such as the alternation between first and third persons singular when referring to the abbot: “*ego Adallardus*” in the *intitulatio* and “*abbas Adallardus ... concessit*” in the *dispositio*. The same goes for two grants by the count to the inhabitants of two parishes,²⁴ where the diplomatic formulas cer-

²¹ No. 2.

²² No. 1.

²³ Nos. 5, 6.

²⁴ Nos. 3, 4.

tainly are later additions, as they have been copied from the text of the forged charter of “1083”, which, as we will see, was made later in the century. The original nucleus of these texts consists in all cases of a record of the juridical act itself, a list of witnesses and a date. As before, we are dealing with an informal kind of charter. This was probably written on a single sheet, and, in the case of a count’s deed, it was possibly validated with a seal.

During the twelfth century, seven more examples of this type of text are found in the Egmond archives,²⁵ suggesting that this had become current practice in recording juridical acts. Around the middle of the century a change can be observed: the witnesses disappear from the contracts between the abbot and his convent. A possible explanation for this phenomenon may be that the abbot now possessed a seal, and that this replaced the names of the witnesses as the validating device. Regrettably, as nearly all these documents are transmitted as copies, this assumption cannot be proven.

We are fortunate that an original of at least one of these informal charters has been preserved (fig. 1). In this charter of *c.* 1175, the Utrecht Chapter of St. Mary’s grants the right of burial to the parishioners of Akersloot, a village some ten kilometres from Egmond.²⁶ The abbey of Egmond was somehow involved in this juridical act, as the charter was not only written by an Egmond monk (as can be deduced from the wording of the text and the style of the script) but it was also kept in the convent’s archives. The text has some elements of the standard diplomatic formulary, even if in a rather unorthodox order, and there is no list of witnesses. The outward appearance agrees with this internal informality: the charter is written in a somewhat cursory minuscule, loosely decorated with some diplomatic traits, in a rather untidy layout; it is, however, validated with a seal. The other informal charters produced in the abbey probably had the same characteristics: they showed a fragmentary use of diplomatic formulas and a certain carelessness regarding script and layout, but they were written on a single sheet and validated by a list of witnesses or a seal, or sometimes perhaps by both. The documents concerned deal with relatively unimportant affairs.

²⁵ Nos. 8, 9, 10, 13, 14, 15, 17.

²⁶ No. 15.

Twelfth-Century Formal Charters

In the same period, the abbey also produced charters that were very different from these informal ones. These are larger, and much more important texts, drawn up in a complete diplomatic style, with a full use of the standard formula and without the internal discrepancies found in some of the charters mentioned before. Another difference is that most of these are preserved as originals. The first of these 'true' charters is the deed issued by bishop Hardbert of Utrecht in 1143, on the occasion of the dedication of Egmond's new abbey church.²⁷ In its text the complete diplomatic formula is found, although it is arranged in an unorthodox order. For instance, the date is placed at the beginning of the text, in the *arenga*, while at the end there is a *datatio* in which the indiction is given. The text of the *dispositio* is not a unity either. When the consecration of the new church of the abbey took place, in the presence of witnesses the bishop confirmed the papal privilege the abbot had received in 1140 and an earlier deed by the count for the convent; in addition, the bishop himself granted the monks freedom from paying toll in his lands. We still have the original charter (fig. 2), and so we can see that it is an impressive, sizeable piece, written in a large but rather unconventional script. It is executed in a book script, which then is adorned with a mass of exuberant decorations. The writing was done by a scribe who clearly was more used to copying books than to writing this diplomatic script. After the text had been finished, he wrote underneath, in a much smaller and informal book script, a list of witnesses. These awkward traits in the wording and the script of the document reveal that it probably was not written by an Utrecht scribe joining the bishop on his trip to Egmond, but rather by a local monk.²⁸ This conclusion is corroborated by the fact that in the *intitulatio* the bishop is mentioned in the majestic plural, "*Nos Hardbertus*", while the Utrecht bishops up to the very end of the twelfth century always use the singular in their charters. Probably this plural form was derived from the papal charter that the abbey had received in 1140 (fig. 3),²⁹ as were, at the end of the final protocol, the words "*Amen*" and "*Bene valete*", and the cross with the four dots written before the list of witnesses.

²⁷ No. 7.

²⁸ Or perhaps the decorations, which are in an Utrecht style, were added by a bishop's clerk.

²⁹ KOCH, *Oorkondenboek*, No. 120.

The next 'true' charter is the Egmond forgery of "1083", that is, if it was really made *after* the diploma of 1143 (fig. 4).³⁰ Since its latest edition was published by Koch in 1970, it is commonly agreed that this document, for centuries a hotly debated piece in Dutch medieval history, was written sometime in the second quarter of the twelfth century. I think, however, that it must have been made between 1156 and 1162. The charter, another one of an impressive size, is written in a diplomatic minuscule by a scribe who was definitely more used to this kind of script than his colleague of 1143, even if in this text fragments of book script do occur, and the *st*- and *ct*-ligatures are rather clumsily executed. The global impression of the layout and script of the piece, however, is one of control and balance. The scribe seems inspired by the papal bull of 1140: compare in both documents the relatively wide margins, the wide spacing between the lines and, in connection with that, the long ascenders (also in the elongated letters, the *litterae elongatae*, of the first line). The conspicuous ligatures in the Egmond charter probably are a (not very successful) imitation of those in the papal bull, as are some typical abbreviation signs. The wording of the "1083" charter shows no influence of the papal text, with the exception perhaps of the double structure of the *sanctio*, in which persons who infringe on the provisions of the deed are threatened with the wrath of God, whereas those who uphold them are promised their reward in the next world. The text of the forgery is a compilation from different sources. In it are recorded the earlier grants of the first counts and their relatives as well as some grants made in 1083. Moreover, in its phrases parts of the so-called *Gravenregister* (an Egmond text from c. 1125) are found, and fragments of the formulary of the old royal charters for the counts, which were kept in the Egmond archives. There is also some clear borrowing from two other important charters in the Egmond archives: one which the abbey received in 1146 from the archbishop of Cologne and another which was issued in 1156 by the abbot of Echternach for Count Dirk VI.³¹

In 1162 two authentic diplomatic texts were again written in Egmond. They are two nearly identical deeds, one of which again has been handed down in its original form (fig. 5).³² These are charters issued by Count Floris III for the abbey of Egmond, in which a bitter conflict between the count and the convent is brought to an end. Floris was forced to give in. These were important documents for the abbey. Both the wording and, as one can see from the surviving

³⁰ No. 1.

³¹ KOCH, *Oorkondenboek*, Nos. 123 and 139 respectively.

³² Nos. 11, 12 (the latter in original form).

original, the script of these texts by now shows a nearly flawless diplomatic style. These charters are truly conceived and executed according to the rules. Elements of the formulary were taken from the “1083” forgery and from the charter issued by the archbishop of Cologne in 1147. The writing also seems inspired by these two documents: the scribe executed a convincing if not yet in all its aspects successful script.

Why Were Charters Introduced in Holland?

By detailed research using palaeographical and diplomatic methods, it proved possible to reconstruct the first phases of pragmatic literacy in the county of Holland before the thirteenth century. It turned out that there are no signs of a comital chancery before 1198, when such an institution came into being under the direction of Allinus, an Egmond monk and the count's chaplain.³³ The only place in the county of Holland with an older tradition of literacy, pragmatic as well as literary, was the Benedictine abbey of Egmond. From its founding in the tenth century onwards, the monks had kept a record of grants given to the convent by the counts in the form of entries in the gospel book. In the late eleventh century, pragmatic literacy developed, and for the first time deeds were written as separate, single-sheet documents, validated with a list of witnesses or a seal. These documents, no matter how defective they were from the point of view of modern diplomatics,³⁴ nevertheless were intended not only to record the juridical act, but also to preserve proof of it. According to our definition, these are the first charters written in Holland. Finally, from the 1140s onwards charters were written in the abbey that met all diplomatic requirements.

³³ On the beginnings of the chancery of the counts, and the role played therein by Allinus, see J.G. KRUISHEER, “De kanselarij van graaf Dirk VII van Holland”, in: *Septet: Gedenkboek bij de herdenking van 75 jarig bestaan van de Vereniging van archivariissen in Nederland* (Groningen, 1966), pp. 24-35 (also *Nederlands Archievenblad* 70 (1966), pp. 99-110), and J.W.J. BURGERS, “Allinus, grafelijke kapelaan en Egmondse geschiedschrijver”, in: *In het spoor van Egbert: Aartsbisschop Egbert van Trier, die bibliotheek en geschiedschrijving van het klooster Egmond*, ed. G.N.M. Vis (Hilversum, 1997: *Egmondse Studiën* 3), pp. 65-149.

³⁴ For that reason, in early twentieth-century diplomatics most of these charters were considered as forgeries; see J. BURGERS and M. MOSTERT, “Oorkondenvervalsingen in Holland? De rehabilitatie van het 12de- en 13de-eeuwse Hollandse oorkondenwezen”, *Holland: Regionaal-historisch tijdschrift* 35 (2003), pp. 134-151 (Polish tr.: “O fałszerstwach dokumentów w średniowiecznej Holandii”, *Roczniki Historyczne* 69 (2003), pp. 49-70).

Now that we have established the outlines of the origin and first development of pragmatic literacy in the county of Holland, or rather in the abbey of Egmond, the question arises as to the forces behind this evolution. What reason did the monks have to put their trust in the written word, to overcome the initial distrust of this breach with the oral tradition, and to invest the extra expense, time and effort necessary for mastering the novel techniques?³⁵ It is easy to see why in the tenth century the oldest records were written in the gospel book. Doubtless they served as a memory aid. Without these records, the monks could not keep track of the wide range of grants given by the successive counts, grants which often consisted of a variety of small lands or rents throughout the county. Of course, the recording these texts in the Holy Book, placed on the altar, guaranteed that the deeds would be respected.³⁶ This was an effective method, and the question arises why, at the end of the eleventh century, a fundamentally new method was introduced with the charter-like document. It has been emphasised before that these new documents clearly had another function than the earlier *aides-mémoire*: their formal structure, not the holiness of the book in which they might have been written, in itself gave evidence of the deed in question. Now, for the first time in Holland, writing of this kind of documents was recognised as an effective means of upholding one's rights and properties against the intrusions of others. The question remains to be answered: why were charters introduced in Egmond, and why then?

The answer must be sought in the cultural, socio-economic and political changes that took place in Egmond and Holland precisely during the last quarter of the eleventh century. In this period, the county of Holland experienced a political revival. After the upheavals of the 1060s and 1070s, when Count Dirk v had still been a small child and the land was dominated by foreign powers,

³⁵ CLANCHY, *From Memory to Written Record*, pp. 294-297, argues that there were strong feelings in favour of the traditional oral methods, not only with ignorant illiterates but also with sophisticated Platonists, and that people had to be persuaded to rely on documentary proof. After all, in the Middle Ages the word 'novel' was hardly considered a recommendation. On the contrary, it was venerable age that inspired confidence; see the heading of the texts copied from the Egmond gospel book, cited *supra*, n. 12.

³⁶ Cf. CLANCHY, *From Memory to Written Record*, pp. 326-327. Probably the sheer magic of the written word, even that of the act of writing itself, played a role in the development of pragmatic literacy: M. MOSTERT, "De magie van het geschreven woord", in: *De betovering van het middeleeuwse Christendom: Studies over ritueel en magie in de Middeleeuwen*, ed. M. MOSTERT and A. DEMYTTENAERE (Hilversum 1995: *Amsterdamse Historische Reeks: Grote Serie* 22), pp. 61-100 (an extended version of: M. MOSTERT, "La magie de l'écrit dans le Haut Moyen Age: Quelques réflexions générales", in: *Haut Moyen Age: Culture, édification et société: Études offertes à Pierre Riché*, ed. M. SOT (La Garenne-Colombes, 1990), pp. 273-281).

Dirk now succeeded in defeating his opponents and regaining the land of his fathers. He ended the occupation of his territories by the bishop of Utrecht and the duke of Lotharingia, and in the 1080s his authority was unchallenged within his county, which from now on was called Holland. Formerly it had been known as Frisia, but due to the steady influx of 'Frankish' settlers this name now seemed inappropriate, as the Frisians proper mostly lived in the northern part of the county; they were by now seen as a foreign people, hostile to the counts.³⁷

During the foreign occupation of Holland, Dirk had lived at the court of his stepfather, Count Robert of Flanders. In Ghent he must have become acquainted with the advanced state of the comital administration and its diplomatic practice. More important for us, abbot Stephen of Egmond (1057-1105) joined him in his exile, as from 1071 until 1076 he was abbot of the great monastery of St. Bavo in Ghent. The library of this venerable and important convent, and its scriptorium, where books, charters and other records were written by the score, must have made a deep impression upon Stephen, coming as he did from a small monastery "on the very edge of the world", as Egmond was not unjustly called.³⁸ One can imagine how, back home in Egmond, he tried to emulate the example he had seen in Ghent. During the last decades of his reign, all aspects of literacy knew a rapid expansion in the abbey. For the first time, administrative records were being kept in separate books, in registers. The need for a better administration arose because of the increased number of grants given to the abbey, which by now were also made by private persons. The convent's library was enlarged with at least some 80 volumes, both liturgical books and works on all branches of science. These new books were in part purchased, but a fair number of them were produced in the convent's own scriptorium. Perhaps even some original works were written in the abbey in this period: the *Vita Ieronis* is thought to date from the latter part of the eleventh century.³⁹

³⁷ Cf. D.P. BLOK, "Holland und Westfriesland", *Frühmittelalterliche Studien* 3 (1969), pp. 347-361, and J.W.J. BURGERS, "Holland omstreeks 1100: De 11e-eeuwse transformatie van het Westfriese graafschap", *Holland: Historisch tijdschrift* 31 (1999), pp. 199-209.

³⁸ In 1143, bishop Hardbert of Utrecht described the convent as situated "*in extremo margine mundi*" (OPPERMANN, *Fontes*, p. 152).

³⁹ The standard reference work on the abbey of Egmond is still J. HOF, *De abdij van Egmond van de aanvang tot 1573* ('s-Gravenhage and Haarlem, 1973: *Hollandse Studiën* 5). More recent studies on different subjects, including the Egmond library, are to be found in the series *Egmondse Studiën*, ed. G.N.M. VIS, 1-4 (Hilversum, 1990-2002). The Egmond sources have been analyzed in: O. OPPEMANN, *Untersuchungen zur Nordniederländischen Geschichte des 10. bis 13. Jahrhunderts*, 1, *Die Egmonder Fälschungen* (Utrecht, 1920: *Bijdragen van het Instituut voor Middeleeuwse Geschiedenis* 3), and, correcting many of Oppermann's untenable

After Stephen's death in 1105, his successors continued his initiatives in the fields of literary and administrative writing. The library was constantly enlarged, and several original works were written in the convent: a *vita* of its patron saint Adalbert, the first part of the *Annales Egmondenses*, and the *Gravenregister*, in which the history of the counts was recorded. These writings reflect a heightened awareness of the cultural and political identity of the monks as members of their convent and as inhabitants of the new entity called Holland. This awareness must have been enhanced by the wars that by now were fought incessantly between the counts and the Frisians. From 1139 to 1161 the convent was governed by Walter, who was a monk of St. Peter's abbey in Ghent before he became abbot in Egmond. As we have seen, it was at this time that Egmond took the final step towards the production of diplomatic documents in the true sense of the word; probably it was Walter who introduced the abbot's (or convent's) seal. Clearly the example of the advanced state of diplomatic writing in Ghent, in which Walter had been schooled, induced him to reform diplomatic practice in Egmond.

All this may explain how and why at the end of the eleventh century in Holland fundamental changes started to transform pragmatic literacy. It is likely that there was a connection between the sudden start of writing of all kinds of texts, including the introduction of the first diplomatic practice in the abbey of Egmond, and the county's new cultural and political self-consciousness; obviously the latter must have triggered the former. Abbot Stephen began by imitating habits he had seen in the powerful Ghent monasteries, because he felt that his own abbey was, or at least should be, an important institution too. The expansion of the library, the introduction of an orderly written administration, and the production of diplomatic documents as written evidence of grants, all should be seen, at least in part, as tokens of the ambitions of the Egmond convent.

The writing of charters began because diplomas gave prestige, because they belonged to the status symbols of prominence and power. In this view, trust in charters is secondary; charters are trusted because they have status, not the other way around. This is the only explanation why a convent like Egmond would introduce the charter for proving its rights and possessions, while it easily could have done without such a device, as it had done for more than a century. The Egmond example further shows that charters did not gain author-

views, in: P.A. MEILINK, *De Egmondsche geschiedbronnen* ('s-Gravenhage, 1939; published earlier in: *Bijdragen voor vaderlandsche geschiedenis en oudheidkunde*, 7e reeks 9 (1938), pp. 1-54, 181-210, and 10 (1939), pp. 1-50).

ity because of the sacredness of the written word, for if that had been the case the gospel book would have remained the ideal medium for preserving important records.

The hypothesis of the charter as a status symbol is confirmed by the development of diplomatic writing in Egmond in the twelfth century. As we have seen, the first 'real' charters began to be written from the 1140s onwards, when very important matters were at stake. These diplomas are truly splendid objects, obviously intended for showing off; they were meant to impress by means of their size and rich decoration. Similarly, there seems every reason to suppose that the full use of the diplomatic formulary also was a sign of ostentation, and not merely an expansion of the text with conventional phrases. Exactly because they were demonstrations of prestige, elements such as the script, decoration, layout and diplomatic formulas were copied from prestigious examples, such as the diplomas of the pope, the kings, the archbishop of Cologne and the abbot of Echternach. The grandest of these early Egmond charters, the forgery of "1083", in its turn became an example for the later diplomatic style of the convent, which took its script and formulary from it. The predominance of status over trust in this early stage of diplomatic development may also be deduced from the fact that the most important of the Egmond charters was not a genuine diploma, but precisely a *falsum*. At the time many of the persons involved, including the count, must have known that the "1083" charter, when it suddenly emerged in all its splendour, was a fake, but this obviously bothered no one.

The counts of Holland give us another indication of the symbolic status of early diplomatic activity. We have seen that only from 1198 onwards the counts had a chancery of their own; before that, they were unable to have charters made by their own clerks. In this light it seems rather peculiar that they owned a seal long before 1198. The 1162 charter for Egmond has the seal of Count Floris III impressed on it, and on the "1083" forgery there is also a seal, which is perhaps that of Count Dirk VI (1121-1157), who therefore must implicitly have recognised the charter. Perhaps the seal even dates from the late eleventh century; if so, it may have been the genuine seal of Dirk V reused by the monk making the forgery. (The style of the stamp seems to suggest such an early date.)⁴⁰ It is certain that Dirk VI had a seal, as it is mentioned unequivocally in

⁴⁰ On this seal, see J.C. KORT, "De oudste zegels van de graven van Holland en het zogenaamde zegel van graaf Dirk V", *De Nederlandsche Leeuw: Maandblad van het Koninklijk Nederlandsch Genootschap voor Geslacht- en Wapenkunde* 110 (1993), cols. 279-291, who thinks the seal is that of count Dirk VI. Count Dirk V could have become acquainted with a count's seal at the court of his stepfather, count Robrecht of Flanders, who in fact possessed a seal (R. LAURENT, *Les sceaux des princes territoriaux Belges du X^e siècle à 1482*, 2 in 3 vols.

the charter of a nobleman called Fastrad Scherebaard. In this undated document, which must have been written between 1130 and 1145, Fastrad asks the count to put his seal to the charter, as he himself is not in the possession of one.⁴¹ It is clear, therefore, that the counts of Holland had owned a seal for several generations, when they had not as yet had the means to have charters written on their own account. The seal obviously was used incidentally to validate charters produced by other parties, but one can hardly maintain that for the counts its possession was a daily necessity. For them the seal probably was primarily a status symbol, representing their public authority, or at least their ambitions.⁴² Similarly, for the monks of Egmond the charter must have been a sign of prominence and wealth. In Holland, the glamour and status of the charter clearly preceded its trustworthiness.

(Bruxelles, 1993), 1.1, p. 150).

⁴¹ KOCH, *Oorkondenboek*, No. 122.

⁴² See also B.M. BEDOS-REZAK, "Medieval identity: A sign and a concept", *The American Historical Review* 105 (2000), pp. 1489-1533, where the symbolic use of the seal is stressed. The author rejects, however, the idea that seals were "icons of power" (p. 1515). Instead, she argues that in the eleventh and twelfth centuries the use of the seal is linked to the contemporary prescholastic debate about mediation, signification and representation. In her view, the seal represented not a real person, but the person as a category. By the seal, the individual retreats "behind representational signs whose operational principles lay not in individualization but classification, not in differentiation but replication, not in identification but verification" (p. 1532). The petty lords in Northern France, however, who at the time began to use a seal, must have had a *practical* reason for adopting it, no matter what they, or their learned clerks, thought about the way the seal represented a person. Status seems to be the most likely reason for the introduction of the seal at these less elevated levels of society.

*Appendix:**List of Charters and Charter-Like Documents Written in Holland, 1083-1198*

In this list are given, after the number of the text: the date the document was written; the person issuing and → the person or institution receiving the charter; and the edition of the text in Koch, *Oorkondenboek* or Oppermann, *Fontes*. The abbreviation ‘inhab.’ stands for ‘inhabitants of’. In the last column, ‘o’ stands for the original charter, if that is preserved, ‘c’ for a later copy.

1	“1083 July 26”	Count Dirk v → Egmond abbey	Koch, No. 88	o
2	[c. 1077-1091]	Count Dirk v → Egmond abbey	<i>Fontes</i> , pp. 64-65	c
3	1108 Apr. 12	Count Floris II → inhab. Heiloo	Koch, No. 94	c
4	1116 July 16	Count Floris II → inhab. Alkmaar	Koch, No. 99	c
5	[1105-1119] Oct. 1	Abbot Adalard → nobleman Eilger	Koch, No. 101	c
6	[1105-1120 Apr. 22]	Abbot Adalard → Egmond abbey	Koch, No. 102	c
7	1143 [Oct. 7 or later]	the Bishop of Utrecht → Egmond abbey	Koch, No. 121	o
8	[1130-1157 Aug. 5]	Knight Willem → Egmond abbey	Koch, No. 145	c
9	[1130-1161 Nov. 28]	Abbot Wouter → Egmond abbey	<i>Fontes</i> , pp. 85-86	c
10	[1130-1161 Nov. 28]	Abbot Wouter → Egmond abbey	<i>Fontes</i> , pp. 88-89	c
11	1162 Aug. 28	Count Floris III → Egmond abbey	Koch, No. 151	c
12	1162 Aug. 28	Count Floris III → Egmond abbey	Koch, No. 152	o
13	1174 Oct. 3	Count Floris III → Egmond abbey	Koch, No. 169	c
14	1173 or 1174	Abbot Wibold → Egmond abbey	Koch, No. 170	c
15	1175	St. Mary of Utrecht → inhab. Akersloot	Koch, No. 171	o
16	[1190-1199]	Count Dirk VII → Middelburg abbey	Koch, No. 237	o
17	[1182-1206 Oct. 3]	Abbot Franco → Egmond abbey	<i>Fontes</i> , p. 91	c

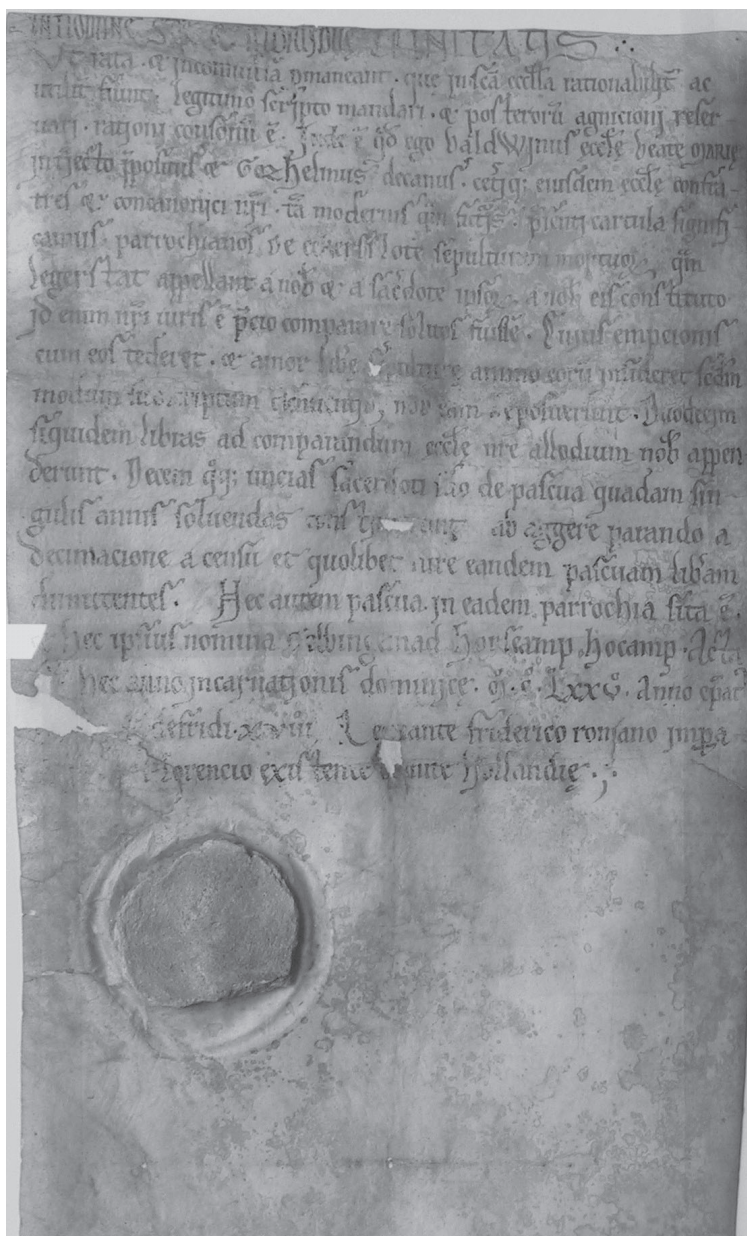


Fig. 1 Charter of St. Mary's of Utrecht for the inhabitants of Akersloot, 1175. Haarlem, Noord-Hollands Archief (NHA), Abdij van Egmond, No. 678.

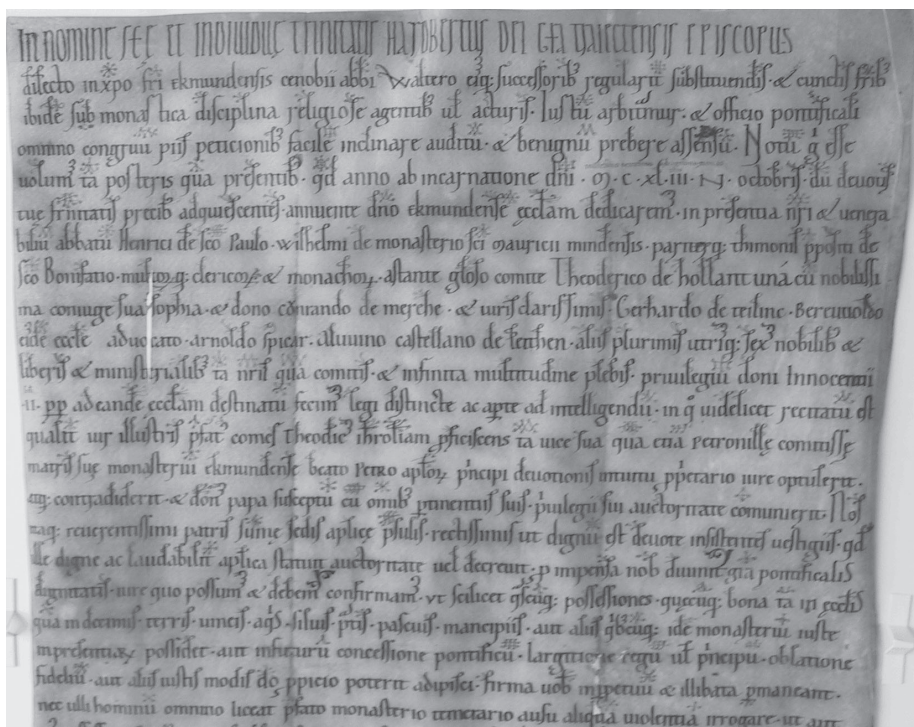


Fig. 2 Charter of Hardbert, bishop of Utrecht for Egmond abbey, 1143 [Oct. 7]. NHA, Abdij van Egmond, No. 56. Fragment.

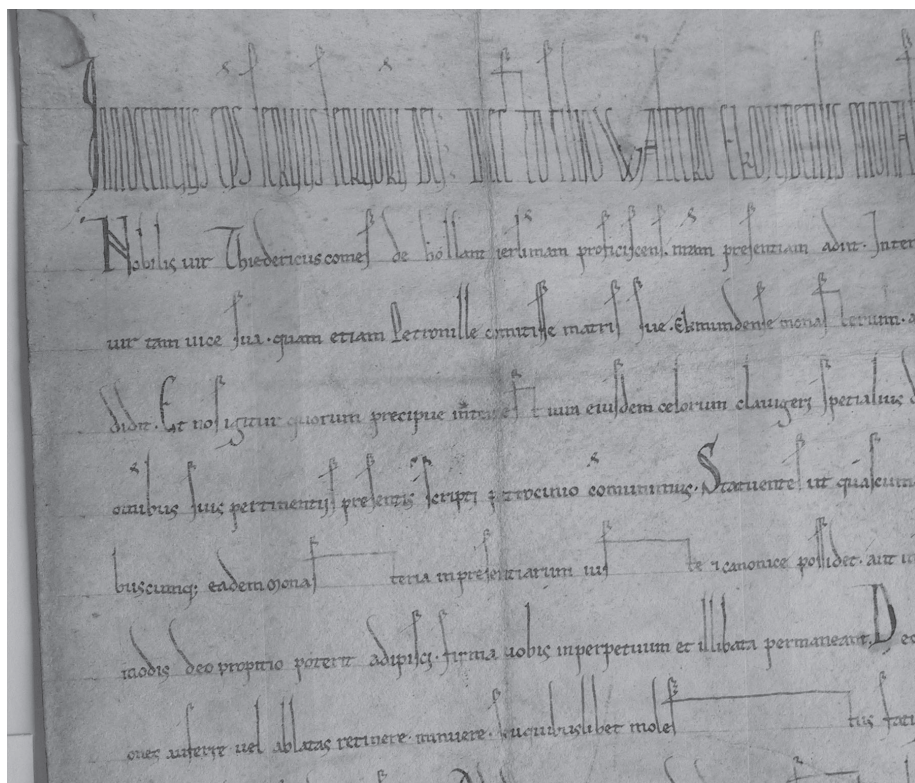


Fig. 3 Charter of pope Innocent III for Egmond abbey, 1140 Febr. 29. NHA, Abdij van Egmond, No. 13. Fragment.

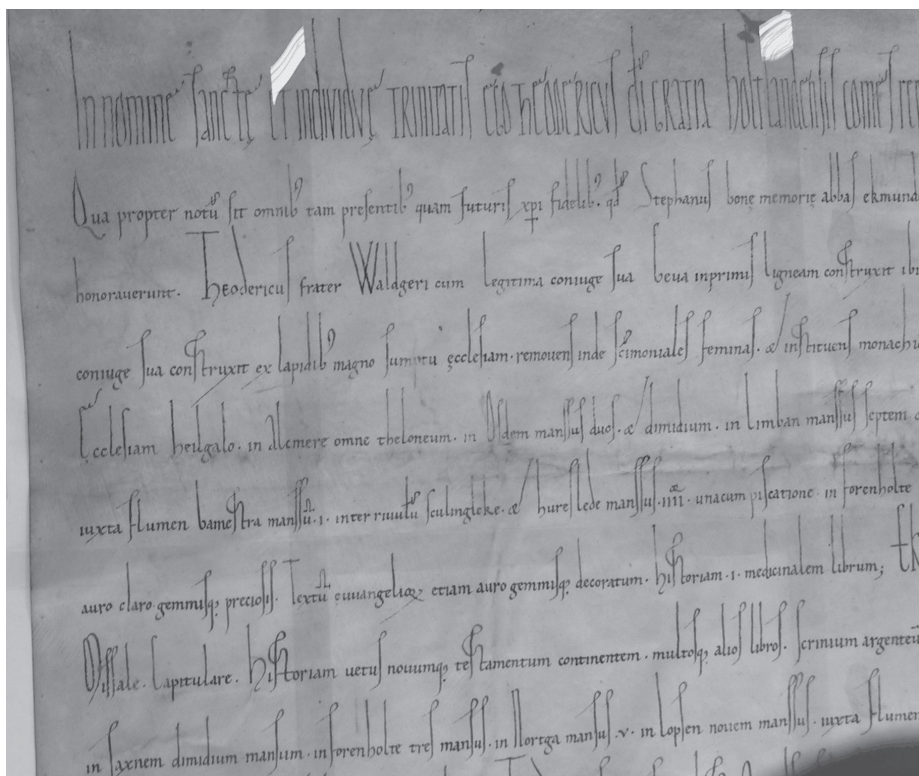


Fig. 4 Forged charter of count Dirk v for Egmond abbey, allegedly 1083 July 26. NHA, Abdij van Egmond, No. 44. Fragment.

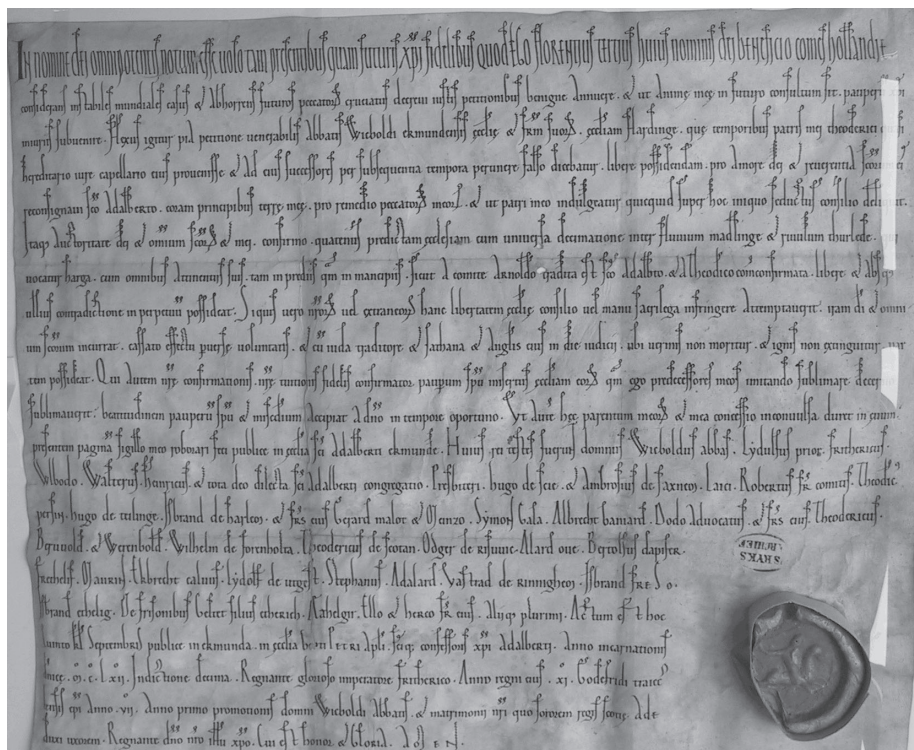


Fig. 5 Charter of count Floris III for Egmond abbey, 1162 August 28. NHA, Abdij van Egmond, No. 719.

Part III: Historiography

Mechanisms of Authentication in Late Medieval North German Chronicles

OLIVER PLESSOW

More than thirty-five years ago, in his essay “The discourse of history” Roland Barthes argued against the notion that a historiographic text could mimetically represent past reality. Mocking in tone and saturated with structuralist fervour, his essay stands as a reminder of the difficulties historians face when claiming truth for any of their writings.¹ Underlining the role of scholarly debate within a scientific community, many have challenged Barthes’s move to deprive historiographical writing of a privileged ontological status. Nevertheless, just as his intellectual successor Hayden White some years later,² Barthes can be credited with having again directed attention to the literary procedures by which meaning is produced even in jejune historical texts.³

¹ R. BARTHES, “The discourse of history”, tr. S. BANN, in: *Comparative Criticism* 3 (1981), pp. 7-20; first published as “Le discours de l’histoire”, *Social Science Information – Informations sur les sciences sociales* 6.4 (1967), pp. 65-75.

² H. WHITE, “The historical text as literary artifact”, *Clio* 3 (1974), pp. 277-303, reprinted in: *The Writing of History*, ed. R.H. CANARY and H. KOZICKI (Madison, Wisc., 1978), pp. 41-62; ID., “The value of narrativity in the representation of reality”, *Critical Inquiry* 7 (1980), pp. 5-27, reprinted in: ID. *The Content of the Form* (Baltimore, 1987), pp. 1-25.

³ Most outspoken among those who recently challenged the sceptics’ view is R.J. EVANS, *In Defence of History*, 2nd edn. (London, 2001). Lionel Gossmann, who belonged to the original group of scholars to criticize the feasibility of transparently conveying a historical ‘truth’, meanwhile has also come to a more balanced assessment: L. GOSSMANN, “The rationality of history”, in: *Between History and Literature* (Cambridge, Mass., 1990), pp. 285-324; for a recent critique of Hayden White from a postmodern narratologist’s perspective, see A. NÜNNING, “‘Verbal Fictions?’ Kritische Überlegungen und narratologische Alternativen zu Hayden Whites Einebnung des Gegensatzes zwischen Historiographie und Literatur”, *Literaturwissenschaftliches Jahrbuch* 40 (1999), pp. 351-380.

“The discourse of history” marked the arrival of the ‘linguistic turn’, and while history as a profession has seen many ‘turns’ since then, Barthes’s and White’s assault on the belief in factuality can still give an impetus to the interpretation of historiographical writing. Although it was aimed primarily at modern and contemporary scholarship, its focus on rhetorical strategies can also open perspectives for scrutinizing the historiographical artifacts of other ages and cultures. Thus, when contemplating trust in writing in the Middle Ages, when trying to discern how medieval chroniclers established trust in the truth of their chronicles, it is worth considering their awareness of the power of language.

To stress the importance of language in the construction of truth is not to say that rhetoric has been a field neglected by medievalists. It is, however, one that is most commonly understood as that of the continuation of classical techniques in the Middle Ages. When Helmut Beumann, prime advocate of German *Ideengeschichte*, addressed the rhetorical aspects of Widukind of Corvey’s *Rerum gestarum Saxonicarum libri tres*, his emphasis was on finding out the extent to which the Saxon chronicler drew on Sallust.⁴ The important role played by classical rhetoric in medieval education has long been acknowledged; it has been remarked, however, that the extent to which its techniques directly influenced authors in the production of new historical texts can hardly ever be decided.⁵

In this article, I intend to go beyond the search for conformity with classical rules of composition, by accentuating the rhetorical strategies used to establish veracity. Inspired by Anthony Giddens’s understanding of ‘structuration’,⁶ we can understand a linguistic procedure meant to convey veracity as a cultural convention established by human interaction. Such a convention is a structure not necessarily bound by a constricted curriculum one has learned in an educational environment. Literary conventions are most unstable phenomena, evolving from observation and imitation no less than from a deliberate adaptation of cognitively acquired rules.⁷ Therefore, it is less important to detect tributes to

⁴ H. BEUMANN, *Widukind von Corvey: Untersuchungen zur Geschichtsschreibung und Ideengeschichte des 10. Jahrhunderts* (Weimar, 1950: *Veröffentlichungen der Historischen Kommission Westfalens* 10.2 = *Abhandlungen über Corveyer Geschichtsschreibung* 3), chapter 5.

⁵ See, for instance N.F. PARTNER, “The new Cornificius: Medieval history and the artifice of words”, in: *Classical Rhetoric & Medieval Historiography*, ed. E. BREISACH (Kalamazoo, 1985: *Studies in Medieval Culture* 19), pp. 5-59, esp. p. 9.

⁶ A. GIDDENS, *The Constitution of Society: Outline of the Theory of Structuration* (Cambridge, 1984), esp. pp. 1-28.

⁷ Identifying combinations of these conventions as ‘genre’ and positioning them between

classical examples than to discern historiographic conventions in their historicity. This is no easy task, since with every new utterance a convention can be subject to change.⁸ It is also indispensable to acknowledge that chroniclers may have used unconventional means, and that there may have been at any given time a variety of means at a chronicler's disposal to achieve the effect of veracity.

I shall pay attention, then, to conventionalized uses of language suited to establish trust in writing. This must not be misunderstood as mere homage to postmodernism. It is indispensable to give the notion of 'trust' its place in our common understanding of the fundamental principles of pre-modern historical thinking. Chroniclers follow (and struggle with) traditional modes of writing history. This is not only the logical result of a suprahistorical linguistic procedure. It is also a characteristically medieval venture which is deeply rooted in a particular cultural paradigm. Generations of scholars have shown that in the Middle Ages the authority of the ancients – which often amounts to that of the existing historical texts – was held in great esteem.⁹ Usually, history was not written to document a change but to affirm the truth of timeless norms, a point which among others Franz-Josef Schmale and Hans-Werner Goetz have stressed.¹⁰ Consequently, chroniclers clearly used conservative means of literacy (*Schriftlichkeit*).

In the late Middle Ages the use of writing can be understood as authentication. This must be kept in mind when assessing the specific devices used to

authorial intent and the demand of an interpretive community, I have attempted to stress this point in my dissertation, published as O. PLESSOW, *Die umgeschriebene Geschichte: Spätmittelalterliche Historiographie in Münster zwischen Bistum und Stadt* (Köln, 2006: *Münstersche Historische Forschungen* 14), chapters 1 and 2.

⁸ Applied to a desubstantialized understanding of 'genre', this idea has been expressed from the viewpoint of reception aesthetics by H.R. JAUSS, "Theory of genres and medieval literature", in: ID., *Toward an Aesthetic of Reception*, tr. T. BAHTI, introduction by P. DE MAN (Minneapolis, 1982: *Theory and History of Literature* 2), pp. 76-109 and notes pp. 205-211, at pp. 88-89; first published as "Theorie der Gattungen und Literatur des Mittelalters", in: *Grundriss der romanischen Literaturen des Mittelalters*, ed. H.R. JAUSS and E. KÖHLER, 1, *Généralités*, ed. M. DELBOUILLE (Heidelberg, 1972), pp. 107-138, at p. 119.

⁹ See, for instance F.-J. SCHMALE, *Funktion und Formen mittelalterlicher Geschichtsschreibung. Eine Einführung* (Darmstadt, 1985: *Die Geschichtswissenschaft*), pp. 74 and *passim*. See also B. GUENÉE, *Histoire et Culture historique dans l'Occident médiéval* (Paris, 1980), pp. 129-147 and *passim*, who discusses in detail what other criteria than mere age make for authoritative historiographical writing.

¹⁰ SCHMALE, *Funktion und Formen mittelalterlicher Geschichtsschreibung*, pp. 60-62; H.-W. GOETZ, "Die Gegenwart der Vergangenheit im früh- und hochmittelalterlichen Geschichtsbewußtsein", *Historische Zeitschrift* 255 (1992), pp. 61-97.

establish trust in historical writing.¹¹ Before any of these devices could affect the construction of truth, a chronicler produced a highly specialized narrative which was culturally accepted as suited to conveying truth. The very fact that he wrote 'history' implied a claim to veracity. Whether he wrote in Latin or in the vernacular, whether he used verse or prose, whatever title or *incipit* he chose for the beginning of his narrative, the general shape he gave to his work (be it a chronicle, or annals, or gesta, or whatever) – all these decisions acted as textual markers telling the audience that here was a text which told something about the past that was true, because a general sense of authority had already been thoroughly established beforehand.

In the Middle Ages, chroniclers had many means at their disposal to establish a notion of truth.¹² One is bound to wonder whether in specific regions, within a certain period, or in different types of historiography, agreed-upon procedures to gain trustworthiness evolved. Restricting the scope of the investigation to a distinct time, space, and genre may provide an insight into the specific arrays of means at the individual chronicler's disposal. Hence, this article will consider a limited corpus of texts. I shall investigate the tangible means used to add an aura of veracity to historiography. I have chosen three chronicles from late medieval northern Germany. They were written in Bremen, Münster, and Osnabrück, flourishing towns which were sees of bishoprics and wealthy (and fairly independent) centres of trade and craftsmanship. Although all three chronicles show individual characteristics, they are homogeneous enough to allow a comparative approach. As far as genre is concerned, all of them form a kind of regional historiography in a period which saw the transition from a historiography centred upon bishops to one integrating urban elements. The degree to which this transformation affected them differs, yet the changes as

¹¹ A prerequisite for this was the gradual proliferation of the use of writing for everyday purposes and its general acceptance as a medium worthy of trust. For this development, see M.T. CLANCHY, *From Memory to Written Record: England, 1066-1307*, 2nd edn. (Oxford, 1993), esp. part II, "The literate mentality".

¹² See, for instance L. SHOPKOW, *History and Community: Norman Historical Writing in the Eleventh and Twelfth Centuries* (Washington, D.C., 1997), pp. 122-124, 142. S. FLEISCHMANN, "On the representation of history and fiction in the Middle Ages", *History and Theory* 22 (1983), pp. 279-310, inquires into the differences between history and fiction as they were perceived in the Middle Ages (a distinction based on the parameters 'authenticity', 'intent', 'reception', 'social function', 'narrative syntax', and 'narrator involvement'). She finds that the era lacked modes of representation to distinguish between the two kinds of writing; her conclusion (p. 306) that the boundaries between history and fiction were constantly shifting confirms my claim that, at the time, historical writing was not characterized by any one single pre-defined set of categories to establish truth.

such can be seen as examples of a wider development, which affected a whole array of chronicles, especially in Germany and Italy.

This choice of texts written when their genre changed, proves advantageous, as it captures a moment when chroniclers faced a historiographic dilemma. They faced a tension between the need to follow well-established patterns of inscribing history (with their potential to show veracity) and the urge to enter unfamiliar territory to meet the needs of prospering urban elites wishing their own, distinct version of the past. Our three chronicles participate in a development in which a relatively young impulse to produce history seizes authority from an existing standard honoured by time.¹³

1. The Chronicles

Over a span of nearly 700 years, bishoprics in Italy, France, and Germany witnessed the evolution of the *gesta episcoporum*, a genre which was customized to the special needs of that pivotal superior authority in the Church, the bishop.¹⁴ Tracing their origin to the papal *Liber pontificalis*,¹⁵ the *gesta*

¹³ See PLESSOW, *Die umgeschriebene Geschichte*, pp. 173-184.

¹⁴ The following references represent only part of the considerable literature on episcopal historiography published over the last forty years: H. GRUNDMANN, *Geschichtsschreibung im Mittelalter: Gattungen – Epochen – Eigenart* (Göttingen, 1965), pp. 38-45; M. SOT, “Historiographie épiscopale et modèle familial en occident au IX^e siècle”, *Annales: Économie, Sociétés, Civilisations* 33 (1978), pp. 433-449; ID., *Gesta episcoporum – Gesta abbatum* (Turnhout, 1981: *Typologie des sources du Moyen Âge occidental* 37); H. HOFMANN, “Artikulationsformen historischen Wissens in der lateinischen Historiographie des hohen und späten Mittelalters”, in: *Grundriss der romanischen Literaturen des Mittelalters*, ed. H.R. JAUSS et al., 11.1, *La littérature historiographique des origines à 1500*, ed. H.-U. GUMBRECHT, U. LINK-HEER and P.-M. SPANGENBERG (Heidelberg, 1987), pp. 367-687, at pp. 418-422; J.-C. PICARD, *Le Souvenir des Évêques: Sépultures, listes épiscopales et culte des évêques en Italie du Nord des origines au X^e siècle* (Rome, 1988); M. MÜLLER, *Die spätmittelalterliche Bistumsgeschichtsschreibung: Überlieferung und Entwicklung* (Köln, Weimar and Wien, 1998: *Beihefte zum Archiv für Kulturgeschichte* 44); D. SCHLOCHTERMEYER, *Bistumschroniken des Hochmittelalters: Die politische Instrumentalisierung von Geschichtsschreibung* (Paderborn etc., 1998).

¹⁵ *Le Liber pontificalis: Texte, introduction et commentaire*, 3 vols., vols. 1-2 ed. L. DUCHESNE (Paris, 1886-1892: *Bibliothèque des Écoles Françaises d'Athènes et de Rome* 2.3), vol. 3 by C. VOGEL (Paris, 1957). The degree to which the *Liber pontificalis* served as a role model for the development of the genre has been the subject of an ongoing debate; see GRUNDMANN, *Geschichtsschreibung im Mittelalter*, p. 39; SOT, *Gesta episcoporum – Gesta abbatum*, p. 32-33; SCHLOCHTERMEYER, *Bistumschroniken des Hochmittelalters*, p. 13; PICARD, *Le souvenir des évêques*, p. 544 and *passim*; G. ARNALDI, “Annali, cronache, storie”, in: *Lo spazio letterario del Medioevo*, 1, *Il Medioevo latino*, 1 vol. in two parts, *La produzione del*

episcoporum came to feature a set of common characteristics, sharing a basic design heavily endowed with spiritual meaning. Despite a degree of variety in the use of that design in individual chronicles, all *gesta episcoporum* are composed around a core structure featuring (a) a foundation narrative embedding the bishopric within the history of salvation, and (b) an uninterrupted series of episcopal *vitae* which shows the continuation of the apostolic mission guaranteed through the succession of bishops.¹⁶ It is to this meaningful framework and its long-lasting institutional backing that the genre owed its enduring success.

The fourteenth century marked the heyday of the genre in the north of the Holy Roman Empire. Initial endeavours had already brought *gesta episcoporum* to Bremen, Hildesheim, and Halberstadt as early as the eleventh and twelfth centuries. By 1380, of those bishoprics dating from Charlemagne's conquest of Saxony, only Paderborn and Osnabrück lacked their own episcopal chronicle. Osnabrück made up for this deficiency in the 1450s. Most of these chronicles were initiated by energetic bishops; they were maintained by the cathedral chapters, which could perpetuate the initial historiographic activity.¹⁷ When the towns that sprouted around these spiritual centres became powerful players with a wish to record history themselves, the local *gesta episcoporum* could yield valuable information on the early history of these polities. They

testo, ed. G. CAVALLO, C. LEONARDI and E. MENESTÒ (Rome, 1993), 2, pp. 463-513, at pp. 487-488; H. FLACHENECKER, "Das Bild der Ortskirche in mittelalterlichen Bistumschroniken: Zur Traditionsbildung zwischen Bischofskatalog, Bistumschronik und Bistumsstatistik", *Römische Quartalsschrift* 95 (2000), pp. 144-166, at pp. 145-146, 150; T.F.X. NOBLE, "A new look at the 'Liber pontificalis' ", *Archivum historiae pontificum* 23 (1985), pp. 347-358, esp. pp. 349-350; M. SOT, "Le 'Liber de episcopis Mettensibus' dans l'histoire du genre 'Gesta episcoporum' ", in: *Paolo Diacono: Uno scrittore fra tradizione longobarda e rinnovamento carolingio: Atti del Convegno Internazionale di Studi (Cividale del Friuli - Udine, 6-9 maggio 1999)*, ed. P. CHIESA (Udine, 2000: *Libri e biblioteche* 9), pp. 527-549, at pp. 547-548.

¹⁶ For this interpretation of the design see, for instance SOT, *Gesta episcoporum – Gesta abbatum*, pp. 16-17. In this article I cannot discuss in detail the objections raised against the notion that the *gesta episcoporum* constituted a separate genre. Most outspoken among the critics are R. KAISER, "Die Gesta episcoporum als Genus der Geschichtsschreibung", in: *Historiographie im frühen Mittelalter*, ed. A. SCHARER and G. SCHEIBELREITER (Wien and München, 1994: *Veröffentlichungen des Instituts für Österreichische Geschichtsforschung* 32), pp. 459-480, esp. p. 460, and MÜLLER, *Die spätmittelalterliche Bistumsgeschichtsschreibung*, p. 3, who has been supported by FLACHENECKER, "Das Bild der Ortskirche in mittelalterlichen Bistumschroniken", pp. 147-148. Considering 'genre' a standardized form of communication to be assessed historically, and not by way of an ex-post classification, I have argued against the idea of ex-post classification in PLESSOW, *Die umgeschriebene Geschichte*, pp. 107-140.

¹⁷ For the role of the cathedral chapters, see SOT, *Gesta episcoporum – Gesta abbatum*, pp. 22-23; SCHLOCHTERMEYER, *Bistumschroniken des Hochmittelalters*, p. 173; FLACHENECKER, "Das Bild der Ortskirche in mittelalterlichen Bistumschroniken", p. 165.

could also be used as a starting point for accounts of more recent times. Bremen and Münster, episcopal sees and important members of the Hanseatic League, can serve as typical representatives of this development; Osnabrück, where the situation was slightly different, joins them as a third example.

Early in the fourteenth century, the archbishopric of Bremen had produced an episcopal chronicle, the Latin *Historia archiepiscoporum Bremensium*.¹⁸ This was more akin to the *gesta episcoporum* than its predecessor by more than three centuries, the famous history of the archbishops written by Adam of Bremen.¹⁹ The *Historia* drew heavily on Adam's work, as it described the lives and deeds of every bishop since the foundation of the bishopric in Charlemagne's times, and since the times of its founding bishop, St. Willehad. In a process which cannot be exactly reconstructed in detail, two clerics, Gerd Rinesberg and Herbot Schene, and a "friend" who commissioned the work and may or may not have been the mayor, Johann Hemeling, translated the chronicle into Low German and continued it up to their own times. As the prologue describes it, the intention was to reiterate the entire history of the archbishops and add to it the "wars, the arrogations, and the destructive uprisings" ("*orleghe unde mannigerleyge sulfwelde unde grote schedelike schichte*") which had affected the city in the past. All this should be done both "out of love for the city of Bremen" ("*umme leve willen der stadt van Bremen*"), and "so that the city may learn from precedent" ("*uppe dat de stadt van Bremen dar mochte lere unde bilde ut nemen*").²⁰ Consequently, in a process which was thoroughly investi-

¹⁸ *Historia archiepiscoporum Bremensium*, ed. J.M. LAPPENBERG, *Geschichtsquellen des Erzstifts und der Stadt Bremen* (Bremen, 1841; reprint Aalen, 1967), pp. 7-54. Unfortunately, Lappenberg's edition omits most of the passages dependent on Adam of Bremen or Albert of Stade.

¹⁹ Adam Bremensis, *Gesta Hammaburgensis ecclesiae pontificum*, ed. B. SCHMEIDLER, *Adam von Bremen, Kirchengeschichte* (Hannover and Leipzig, 1917: *MGH SRG in usum scholarum* 2).

²⁰ *Die Chroniken der niedersächsischen Städte: Bremen*, ed. H. MEINERT (Bremen, 1968: *Die Chroniken der deutschen Städte* 37), p. 1. Fundamental publications on this vernacular chronicle are H. SCHWARZWÄLDER, "Die Chronik von Rinesberch und Schene: Verfasser, Bearbeiter, Überlieferung", *Bremisches Jahrbuch* 52 (1972), pp. 21-37; P. JOHANEK, "Geschichtsbild und Geschichtsschreibung in den sächsischen Städten im 15. und 16. Jahrhundert", in: *Hanse - Städte - Bünde: Die sächsischen Städte zwischen Elbe und Weser um 1500*, ed. M. PUHLE (Magdeburg, 1996), pp. 557-574, at pp. 557-562 and *passim*; K. WRIEDT, "Bürgerliche Geschichtsschreibung im 15. und 16. Jahrhundert: Ansätze und Formen", in: *Städtische Geschichtsschreibung im Spätmittelalter und in der frühen Neuzeit*, ed. P. JOHANEK (Köln, Weimar and Wien, 2000: *Städteforschung* A 47), pp. 19-50, at pp. 38-39; W. EHBRECHT, "'Uppe dat sulck grot vorderffnisse jo nicht meer enscheghe': Konsens und Konflikt als eine Leitfrage städtischer Historiographie, nicht nur im Hanseraum", in: *Städtische Geschichtsschreibung im*

gated by the editor, Hermann Meinert, and has since been repeatedly discussed,²¹ the chroniclers inserted many accounts into the older narrative, enhancing the position of the city. Two insertions are particularly notable: the proclamation of semi-autonomy, supposedly awarded by Charlemagne, and the precedence over other towns, allegedly awarded by Emperor Henry V because some citizens had excelled during the First Crusade.²²

Just as the chronicle of Rinesberg and Schene, the continuation of Ps.-Arnd Bevergern in Münster transformed an earlier episcopal chronicle in line with an 'urban' mode of writing history by adding on to the existing text. It did not, however, resort to interpolation to reinterpret the past. The point of departure for all historiographic activity in Münster was the so-called Chronicle of Florenz of Wevelinghoven. Compiled in the early 1370s, this work painstakingly follows the model of the *gesta episcoporum*.²³ The anonymous chronicler of the later continuation, who was formerly erroneously identified with the guild leader Arnd Bevergern, based his continuation on an extended translation of the Chronicle of Florenz which ended its record of events in 1424. He took the account up to the middle of the fifteenth century; he included ever more information on the affairs of the city, and finally filled an entire *vita* with a report on the *Münstersche Stiftsfehde* (1450-1458).²⁴ The *Stiftsfehde* was a small-scale

Spätmittelalter und in der frühen Neuzeit, pp. 51-109, at pp. 51-87 and *passim*.

²¹ Based on K. Koppmann's findings, Meinert rendered his conclusions in *Die Chroniken der niedersächsischen Städte: Bremen*, "Einleitung", pp. XXIX-XXXVII; he was refuted by SCHWARZWÄLDER, "Die Chronik von Rinesberg und Schene", pp. 31-36.

²² *Die Chroniken der niedersächsischen Städte: Bremen*, pp. 3, 40-42, 98; see also *ibid.*, "Einleitung", pp. XXXII-XXXV; JOHANEK, "Geschichtsbild und Geschichtsschreibung", pp. 560-562.

²³ *Florenz von Wevelinkhoven's Chronik der Bischöfe von Münster mit der Fortsetzung eines Ungenannten und den Zusätzen der Mönche von Marienfeld, 772-1424*, ed. J. FICKER, *Die münsterischen Chroniken des Mittelalters* (Münster, 1851: *Die Geschichtsquellen des Bisthums Münster* 1), pp. 1-91.

²⁴ The chronicle ascribed to Arnd Bevergern consists of (a) the Low German translation of the chronicle of Florenz of Wevelinghoven, the *Chronik der Bischöfe von Münster von der Stiftung des Bisthums bis auf den Tod Bischof Otto's von der Hoya, 772-1424*, ed. J. FICKER, *Die münsterischen Chroniken des Mittelalters*, pp. 92-155, (b) the court cases which immediately follow *vita* of bishop Otto IV of Hoya, and (c) four *vitae* of varying length. Unfortunately, only these four *vitae* were published by Ficker (as *Arnd Bevergern's münsterische Chronik von der Wahl Bischof Heinrich's von Moers bis auf die Einführung Bischof Heinrich's von Schwarzenburg, 1424-1466*, *ibid.*, pp. 244-288), while the court cases were edited solely as part of a more recent, altered version, the *Leben Otto's von der Hoya, Bischof's zu Münster, 1392-1424*, *ibid.*, pp. 156-187, at pp. 164-172; I included the edition of a short segment which was lacking in Ficker's edition in my dissertation; see PLESSOW, *Die umgeschriebene Geschichte*, p. 307.

war waged over a schism within the diocese, in which the struggles for supremacy among the leading dynasties of the German Northwest mingled with a dispute between different factions within the town of Münster, that is, those of the merchant elite and the artisans.²⁵ In the account of the feud, the focus is upon the misfortunes of Arnd Bevergern, the guild leader who transmogrifies from a supporter of count Johann of Hoya (who had taken control of the city) into a haunted and then exiled opponent of that infamous nobleman.

Compare this to the development in Osnabrück, our third example. Between 1481 and 1495, Ertwin Ertmann, member of the Osnabrück city council and counsellor of the bishop of Osnabrück, composed the *Cronica sive catalogus episcoporum Osnaburgensium*. This is an episcopal chronicle comprising much of late medieval Westphalian history by integrating several existing works of regional historiography into its narrative.²⁶ Here, the ordinary transition from Latin to the vernacular was inverted, as Ertmann drew in part on an existing Low German verse chronicle of the bishops of Osnabrück. Much of the resulting narrative, however, is his own work. Ertmann's chronicle has a much broader range than its counterparts in Bremen and Münster. His integration of urban elements into the text stemmed from his intimate knowledge of the city's affairs; through his position as advisor to the bishop he had access to matters relating to the bishopric.²⁷ Ertmann was a town magistrate who focussed on

²⁵ In spite of shortcomings, the standard reference book for the 'Münstersche Stiftsfehde' remains J. HANSEN, *Westfalen und Rheinland im 15. Jahrhundert*, 2, *Die Münsterische Stiftsfehde* (Leipzig 1890: *Publicationen aus den K. Preußischen Staatsarchiven* 42). More recent contributions include K.-H. KIRCHHOFF, "Die Unruhen in Münster/Westf. 1450-1457: Ein Beitrag zur Topographie und Prosopographie einer städtischen Protestbewegung: Mit einem Exkurs: Rat, Gilde und Gemeinheit in Münster 1354-1458", in: *Städtische Führungsgruppen und Gemeinde in der werdenden Neuzeit*, ed. W. EHBRECHT (Köln and Wien, 1980: *Städteforschung* A 9), pp. 153-312, and W. EHBRECHT, "Rat, Gilden und Gemeinde zwischen Hochmittelalter und Neuzeit", in: *Geschichte der Stadt Münster*, ed. F.-J. JAKOBI with the collaboration of T. KÜSTER, 1 (Münster, 1994), pp. 91-144, at pp. 135-137.

²⁶ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, ed. H. FORST, *Die Chroniken des Mittelalters*, ed. F. PHILIPPI and H. FORST (Osnabrück, 1891, reprinted Osnabrück, 1977: *Osnabrücker Geschichtsquellen* 1), pp. 19-173; see also H. SCHMIDT, "Über das Verständnis von der Geschichte in Ertwin Ertmans Chronik der Bischöfe von Osnabrück", *Osnabrücker Mitteilungen* 69 (1960), pp. 6-38; R. POSTEL, "'Warumb ich disse historiam beschrieben': Bürgermeister als Chronisten", in: *Städtische Geschichtsschreibung im Spätmittelalter und in der frühen Neuzeit*, pp. 318-332, at pp. 321-322; G. DIEHL, *Exempla für eine sich wandelnde Welt: Studien zur norddeutschen Geschichtsschreibung im 15. und 16. Jahrhundert* (Bielefeld, 2000: *Veröffentlichungen des Instituts für Historische Landesforschung der Universität Göttingen* 38), pp. 60-87.

²⁷ For Ertmann's biography, see DIEHL, *Exempla für eine sich wandelnde Welt*, pp. 60-64.

writing an episcopal chronicle; his interest in the town itself was secondary. When there were disturbances between the town and its prince-bishop, Ertmann even tended to pass over in silence any town activity.²⁸

2. Charters and Documents

If we think about how much modern medievalists value documentary evidence when assessing the truth of a statement, it is obvious to ask in how far the credibility of medieval historians rested on their willingness to resort to charters and other original documents. In his introduction to medieval historiography, Franz-Josef Schmale says that in Germany the habit of historians to quote charters was an achievement of the twelfth century with its propagandistic chronicles, the *Streitschriften* of the Investiture Contest. In Schmale's view, the overarching idea of these quotations was to legitimate one's own position by exposing the other's deficiencies in his own words. Schmale goes on to argue that, starting with the twelfth century, it became ever more 'fashionable' to compile chronicles on an ample foundation of documentary sources. Accordingly, rather than incorporating the opponents' charters, one incorporated those documents which allowed one to establish the basic outlines of one's own institution's history.²⁹

If Schmale emphasizes the promotion of institutional memory, he also stresses the power of documents to add to the legitimacy of a historical text. Chroniclers writing from the perspective of an institution resorted to their archives to prove truth claims. This consideration also guided Bernard Guenée, who covered the use of charters in historiography generally, and Michel Sot, who dealt with their use in the *gesta episcoporum*.³⁰ Guenée's focus is on the type of sources chroniclers had at their disposal rather than on the way these were rhetorically integrated into the narrative. In contrast to Schmale, he feels no need to distinguish between the use of documents in different times or places. In his view, during the entire Middle Ages historians could either in-

²⁸ See DIEHL, *Exempla für eine sich wandelnde Welt*, p. 80.

²⁹ SCHMALE, *Funktion und Formen mittelalterlicher Geschichtsschreibung*, pp. 97-98. H. REPPICH, *Die Urkunde in der Geschichtsschreibung des Mittelalters* (Phil. Diss. Berlin, 1924), pp. 22-23, also sees a clear, albeit moderate, increase in the historiographic use of inserted documents at the time of the Investiture Contest; he views this, however, as a renewal after an interval of two hundred years.

³⁰ GUENÉE, *Histoire et Culture historique*, pp. 91-100, 109-112; SOT, *Gesta episcoporum – Gesta abbatum*, pp. 49-50.

clude brief references to charters or reproduce documents *in extenso*. He stresses, however, that one observes an increasing tendency to mark the differences between documents and plain historical narrative.³¹ Sot's remarks on the insertion of documents are in line with Guenée's. In addition, he stresses a peculiarity of the *gesta episcoporum* that affects the production of truth: while the chronicle's credibility may benefit from the insertion of documents, their ability to authenticate the account also profits from embedding these documents in a rigidly structured text, allowing one to tie a document to a specific bishop and his legal deeds. Authority rests with the sacredness of the episcopal institution; hence the truth is established beforehand.³²

Guenée's references to archivists who are in charge both of their institution's documents and the production of historiography leads on to two further crucial points. First, depending on the chronicler's proximity to the institution and the nature of the text, in legal contexts chronicles could be used either instead of, or apart from, the documents themselves. Archives were barred from public use, however, and an inherent tension arises between the wish to authenticate claims by using entire documents and the urge to keep their exact wording confidential as long as possible. Guenée reminds us of the cartulary-chronicles, a hybrid between a collection of legal documents and historiography.³³ Since these cartulary-chronicles were usually kept in one copy only and were stowed away with the records, one is bound to ask whether they played any role as a device in communicating trustworthiness to a larger audience. Their role as just another instrument to help find archival records – records which in themselves possessed legitimizing power – must be stressed. Secondly, Guenée reminds us of the practice to refer to documents outside the historiographical text by way of explicit or implicit references. As far as the enhancement of credibility is concerned, one would assume that these references would have to be explicit. The example from Bremen will show that this was not always the case. In our comparative approach, it will be necessary to combine direct quotations from charters and explicit and implicit references to them.

³¹ GUENÉE, *Histoire et Culture historique*, p. 97.

³² SOT, *Gesta episcoporum – Gesta abbatum*, p. 49. Sot's conclusions and his emphasis on the subordination of the past to the present make one think of the lucid characterization of medieval historiography as simultaneously retrospective and directed towards the present by GOETZ, "Die Gegenwart der Vergangenheit".

³³ GUENÉE, *Histoire et Culture historique*, p. 94.

It is difficult to pinpoint one single method by which North German chroniclers inserted documents and charters into their narrative. This is particularly true for the episcopal chronicles and their continuations under scrutiny here.³⁴

Osnabrück

Among our three chronicles, Ertwin Ertmann's *Cronicon sive catalogus* seems closest to showing a modern understanding of using documentary evidence in historical narrative. Ertmann made extensive use of charters, and rather than using them only for legitimation he used them also as historical sources. Maybe his education as a lawyer had taught him that resorting to charters was an appropriate means of verifying the account of an event. At the beginning of his chronicle, he gives us some insight into his historiographic programme and the way he aimed to achieve truth. Ertmann, the "explorer of the deeds of the ancients" (*"indagator veterum gestorum"*)³⁵ says that he wanted to assemble all information he could gather from existing works; he had merely put everything together (*"in unum duxi colligenda"*), writing nothing new but repeating and uniting what had already been written (*"non nova scribens sed antiqua revolvens atque uniens"*). He explicitly claims not to have intended to insert anything that he believed to be false (*"protestans tamen quod falsitatem scienter inserere assertive non intendo"*).³⁶

In his chronicle, Ertmann supported this assertion by regularly resorting to charters. Sometimes, he extracted provisions from them and quoted those; sometimes he only quoted their corroborating elements; at other times he merely referred to their existence. Heinrich Schmidt, who has devoted some attention to the use of charters in Ertmann, and Gerhard Diehl, who in his recent dissertation follows Schmidt's argument, hold that the principal task of the charters was to define the bishopric through the proprietary rights which had been put in writing in the charters.³⁷ It might have been more accurate also to

³⁴ Focusing on earlier *gesta episcoporum* such as those by Flodoard, Adam of Bremen, or the *Gesta episcoporum Cameracensium*, REPPICH, *Die Urkunde in der Geschichtsschreibung des Mittelalters*, p. 116, pointed to the heterogeneous use by episcopal chroniclers of documents and charters.

³⁵ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 21.

³⁶ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 22-23; see DIEHL, *Exempla für eine sich wandelnde Welt*, pp. 66, 68.

³⁷ SCHMIDT, "Über das Verständnis von der Geschichte", p. 18; DIEHL, *Exempla für eine sich wandelnde Welt*, p. 70.

consider the historiographical role played by the charters in the chronicle, a point which Diehl touches upon but without elaboration.³⁸ There is a pattern in the way Ertmann relates an event and then adds the information supplied by the documents as a supporting element. Thus, the charters both prove what has been said before and show what the results of the event have been concerning changes in property or privileges.

Ertmann does not only reiterate the charters. From time to time he also mentions where they have been deposited. Here, too, his legal background shines through. For a document to be efficacious required control over its keeping and the ability to retrieve it from the archives when necessary.³⁹ He reveals that he had access to both the documents of the cathedral and the documents in the city archives. (Whether a reader could check this claim by actually going there and having a look at the records, is another matter entirely, of course.) Ertmann even comments upon his own personal perusal of the records. To give but one example: at one point he reports yet another feud in which the territorial interests of the bishops of Münster and Osnabrück were in dispute. Ertmann briefly tells of the hostilities and devastations of the countryside in 1435 before he goes on to the attempts of the archbishop of Bremen and others to settle the conflict. The paragraph culminates in a summary of the *arbitramentum* (the document of arbitration) and its provisions. This summary ends with the remark that sealed letters could be found in the chapter archives, where Ertmann himself had seen and read them to find the provisions of the settlement ("*super quibus attestationibus littere sigillis munitae sunt in archivis et scrineis capituli et ecclesie Osnaburgensis quas vidi atque legi*").⁴⁰ Having said that, he added, "and thus peace was regained for both churches" ("*sicque fuit pax reddita ecclesiis ambabus*"). This supports the argument in his narrative that the issuing of a charter could in itself constitute a historical event, rather than merely authenticating the event afterwards.

Ertmann's referring to documents from the city archives is similar to the procedure he follows in using documents from the chapter's depository. Concerning a treaty of 1373, the reader of the chronicle learns that there were seal-

³⁸ DIEHL, *Exempla für eine sich wandelnde Welt*, p. 69.

³⁹ For the development of specialized procedures and institutions for record keeping (archives, libraries) and for the problem of actually retrieving them, see CLANCHY, *From Memory to Written Record*, pp. 145-172.

⁴⁰ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 144; see SCHMIDT, "Über das Verständnis von der Geschichte", p. 8, who also referred to this passage (with the erroneous page number 114); DIEHL, *Exempla für eine sich wandelnde Welt*, p. 69, with more examples.

ed letters, and that they existed in the city hall in Osnabrück (*“super quibus certe littere sigillate in domo consulatus civitatis Osnaburgensis inter alias privilegia recondita habentur”*).⁴¹ The reference system is basically the same, whether the charters were deposited by the chapter or the town. There is a notable difference, however, in the uses made of the documents taken from these two archives. The number of chapter charters referred to in the chronicle is far larger than that of the town charters. Schmidt has convincingly shown that this distribution follows a design restricting the use of documents which might prove an institution’s claims on rights of the *ecclesia Osnaburgensis*. However, those charters which would have been suitable to present the town as an autonomous entity – and to them Ertmann had access as well – are also conspicuously left out. In striking contrast to the chronicle of Rinesberg and Schene, for instance no mention is made of the town’s assertion to have been founded by Charlemagne at the very moment he had founded the bishopric!⁴²

Bremen

The situation is different or even inverted in Bremen. The older *Historia archiepiscoporum Bremensium* had hardly had any use for documentary evidence. The sole exceptions are a papal letter written to the king of Norway because of his failure to accept Bremish metropolitan authority and a privilege issued to the town of Lübeck by Henry the Lion;⁴³ the words of both are reproduced. Both instances were due to the sources (Adam of Bremen/Albert of Stade and the Lübeck town chronicle respectively) which the *Historia* abbreviated. The *Historia* did not even include reports of the foundation of prebends in the text. These reports are very common in *gesta episcoporum*, and were often taken from charters in the chapter archives.⁴⁴ Things change markedly in the vernacular translation and continuation, and particularly in its insertions into the older text.

⁴¹ Ertwini Ertmanni *Cronica sive catalogus episcoporum Osnaburgensium*, p. 111; a similar reference concerns a peace treaty of 1376 kept at the same place (*“que adhuc in domo consulatus civitatis Osnaburgensis habetur”*), *ibid.*, p. 114.

⁴² See SCHMIDT, “Über das Verständnis von der Geschichte”, p. 12.

⁴³ Lappenberg failed to render passages in his partial edition; Meinert’s edition of their Low German translation (which is part of the chronicle of Rinesberg and Schene), can act as a substitute for these passages. See *Die Chroniken der niedersächsischen Städte: Bremen*, pp. 30 and 56.

⁴⁴ See SOT, *Gesta episcoporum – Gesta abbatum*, p. 27.

The origin of the insertions in the Low German text is a matter of controversy. They show a coherent pattern, and they use a collection of charters compiled by Johann Hemeling. This *Diplomatarium fabricae ecclesiae Bremensis* is a collection of charters concerning the ongoing construction work at Bremen cathedral. It features exactly those – contrived – pieces on the liberty and outstanding privileges of Bremen referred to in the chronicle. The debate centres on the question whether Johann Hemeling himself is responsible for the insertions into the chronicle. Or was it another member of the political elite of Bremen?⁴⁵ Whatever the answer is, it is crucial that there is an indisputable connection between the collection and the chronicle.

The system by which the historiographical text in the Bremen chronicle refers to charters is far less elaborated than Ertmann's system in the chronicle from Osnabrück. In spite of the striking correspondences between the chronicle of Rinesberg and Schene and the *Diplomatarium*, readers are not directed from one to the other. In the chronicle there are no references to the documents' repository either. Nor are they rendered literally, not even in part. Instead, as far as the privileges supposedly granted by Charlemagne are concerned, it is simply stated at the end of the second insertion: "there are good letters made about it" (*"dar gude breve uppe synt"*).⁴⁶ This leads us back to the question whether an implicit reference may contribute just as much to an effect of veracity as an explicit, detailed reference to archival records. We will never know what use was made of either chronicle or *Diplomatarium* in political life. One is inclined to assume, however, that the two seemingly 'independent sources' may have enhanced their one another's trustworthiness and truth.

Münster

The historiography of Münster provides yet another picture. Neither in the Chronicle of Florenz of Wevelinghoven nor in the combination of its vernacular translation with the continuation of Ps.-Arnd Bevergern do charters play a role in supporting any assertion of truth. The author(s) of the original Latin

⁴⁵ See L. KLINK, *Johann Hemelings 'Diplomatarium fabricae ecclesiae Bremensis' von 1415/20* (Hildesheim, 1988: *Veröffentlichungen der Historischen Kommission für Niedersachsen und Bremen* 37 = *Quellen und Untersuchungen zur Geschichte Niedersachsens im Mittelalter* 10), pp. 24-26; EHBRECHT, " 'Uppe dat sulck grot vorderffenisse jo nicht meer enscheghe' ", p. 38; and MEINERT, "Einleitung", in: *Die Chroniken der niedersächsischen Städte: Bremen*, pp. XXXII-XXXV.

⁴⁶ *Die Chroniken der niedersächsischen Städte: Bremen*, p. 10.

chronicle from the 1360s/1370s had used the necrology of the cathedral and many charters from the chapter archives as sources, but this was not made known to the reader. The information given on prebends and privileges evidently needed no immediate authentication outside the text. As far as the continuation of Ps.-Arnd Bevergern is concerned, there are only two very brief references to charters, and both refer to the usurpation of rights by the abhorred count of Hoya. However, they do not really support the chronicle's biased version of the events. Instead, they are tiny components of a more comprehensive textual strategy, as they act as mere separators between two sections of the text.⁴⁷

3. Names

The use of proper names in chronicles may correct the impression obtained from exclusively considering the use of documents. In establishing what gave credibility to a text, it is worth noting who are referred to by name, who are referred to by function, who are referred to as a group, and who are not referred to at all. Many late medieval, highly standardized examples of *gesta episcoporum* such as the Chronicle of Florenz of Wevelinghoven or – to a lesser degree – the *Historia archiepiscoporum Bremensium* share a tendency to avoid calling people of lower status by name. This tendency helped to focus the attention on the bishop. Sometimes, however, a chronicler named an individual whose name still formed part of the collective memory of an event, favouring a gain in credibility over a potential loss of focus.

The transformation to an urban-oriented historiography brought with it a noticeable change. When episcopal chronicles were rewritten and continued in urban contexts, they often showed an intensified use of proper names, particularly giving those of the town's citizens. The way this is done, however, is not standardized, as is shown by our examples from Bremen, Osnabrück and Münster.

Ertwin Ertmann's use of names is unsystematic. This may in part be explained by the multi-faceted nature of his chronicle. His sources not always provided the relevant information. When he addressed an occurrence in detail,

⁴⁷ The reference to the "*two besegelde breve*" by which the Münster magistrate handed over sovereignty to the count of Hoya is interposed between a passage that takes the report up to September 1453 and a passage that reiterates events beginning in February 1453 (*Arnd Bevergern's münsterische Chronik*, p. 265).

as he often did when relating events of the fifteenth century, he liked to mention the names of those involved to his report.⁴⁸ Just as his inclusion of charters, his naming practice makes him appear generally well-informed. His contemporaries would have concurred in this with his modern readers. That giving names was very important to him is shown in a telling example. In a passage taken from the chronicle of Florenz of Wevelinghoven, Ertwin Ertmann changed the name of an arbiter from 'Ludwig' to 'Ludolf', presumably after he had compared the historiographic account with the original charter on which it had been based.⁴⁹ However, there is no explicit indication that Ertmann included names as a deliberate means of authentication. The status of those to whom he referred by name seems to have been utterly unimportant to him, as long as the story supported the point he was trying to make. Most of those mentioned are bishops or members of the local nobility or mayors, although members of the city council or simple citizens also count among them.⁵⁰

This differs strikingly from the abundant usage of names in those parts of the chronicle of Rinesberg and Schene which are original and independent. As Ahasver von Brandt and Wilfried Ehbrecht have shown, there is a tendency both in the continuation of the translation of the *Historia* and in the inserted segments to attribute nearly every action which involved a citizen to a named individual.⁵¹ This mechanism supplies an event with an aura of authenticity – especially when events from a more distant past are related. In fact, one of the insertions into the early parts of the *Historia* contains the first reference to individual townsmen in the entire chronicle, in stark contrast to the older passages immediately before and after, which give only the names of members of the higher clergy or the nobility (especially when the *Historia* was drawing on Adam of Bremen).⁵² To attribute action to named individuals, the chroniclers even went so far as to make up names which cannot be identified with any historical persons.

⁴⁸ See, for instance *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, pp. 144, 145, and 147.

⁴⁹ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 72 and note 1.

⁵⁰ See, for instance *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, pp. 142 (the mayor of Osnabrück Hermann of Melle) and 159 ([Cord] Stromberch, a citizen of Münster accused of counterfeiting).

⁵¹ See EHBRECHT, "‘Uppe dat sulck grot vorderffenisse jo nicht meer enscheghe’", p. 89.

⁵² *Die Chroniken der niedersächsischen Städte: Bremen*, p. 41. The pertinent passage reports the alleged participation in the First Crusade – wrongly dated to 1111 – by sixteen distinguished and individually named citizens of Bremen.

In Münster, too, the older episcopal chronicle had avoided referring to individual citizens. Similar to the situation in Bremen, the vernacular continuation features the names of all citizens portrayed in action. One group, however, long remains nameless: “the unidentified screamers” (“*de ungenanten roepere*”), a term derogatorily designating the supporters of the count of Hoya.⁵³ When the criticism of the screamers’ actions reaches its climax in the chronicle, however, the chronicler inserts three lists with the names of 82 of those who were allegedly to be left unnamed.⁵⁴ In this example, supplying names is not merely a means of authentication, but outright accusation and derogation.

4. Narrativization

Episcopal chronicles share a paradigmatic mode of writing history.⁵⁵ Passages dealing with events from a distant past show no propensity at all to tell a story. The style is paratactic and unsophisticated. Repetition is the dominant principle of composition. For the most part, bits and pieces of information are simply tied to the name of a bishop and the time of his reign.⁵⁶ Only the foundation narratives allow for epic elaboration. In the Chronicle of Florenz of Wevelinghoven, for instance the account of the missionary and bishop St. Liudger was modelled on Altfried’s regionally well-known *vita*. Apart from that, the chronicle was artless from the point of view of narratology.⁵⁷

The *Historia archiepiscoporum Bremensium* epitomizes the same compositional tradition. Here, abstaining from epic patterning may be read as the result of a deliberate choice by the chronicler. The main source of the *Historia* was the highly elaborate and verbose account of Adam of Bremen. The *Historia*’s author reduced Adam’s work to a text which was much more in line with the mode of composition which had by then become an established convention of the *gesta episcoporum*.⁵⁸ This abridgement also meant concentration on those passages which focused on the bishops’ dealings. The chronicle of Rinesberg and Schene, by contrast, reversed this development in those parts which were

⁵³ Arnd Bevergern’s *münsterische Chronik*, p. 261.

⁵⁴ Arnd Bevergern’s *münsterische Chronik*, pp. 266–268.

⁵⁵ See PLESSOW, *Die umgeschriebene Geschichte*, pp. 109–110, 114–115, 347.

⁵⁶ See SOT, *Gesta episcoporum – Gesta abbatum*, p. 6.

⁵⁷ Only once the account approaches the time of its composition do reports of war actions and feuds begin to be included. See, for instance the account of the episcopate of Ludwig of Hesse (1310–1357) (*Florenz von Wevelinkhoven’s Chronik der Bischöfe von Münster*, pp. 41–50).

⁵⁸ See PLESSOW, *Die umgeschriebene Geschichte*, pp. 134, 137.

independent of the *Historia*. It included passages which moulded events into an interwoven literary sequence, that is, into a 'narrative'.

The *gesta episcoporum* based their claim to truth on their underlying structure, the uncorrupted axis of episcopal *vitae*. The matter was selected in a way that showed the legitimation of the officeholder. This kind of writing helped a prelate to authenticate his claim to power. Conversely, the text benefitted greatly from its close association with an influential institution. The bishops' power rested upon the apostolic succession as shown by the chronicles, and the chronicles could claim authenticity because of their mimetic reproduction of a system already commonly accepted to be true. Thus, text and context could mutually enhance their potential to represent truth.

Historiography's move towards the cities required that different techniques had to be used to enhance trust in writing. The chronicle of Rinesberg and Schene shows that narrativization of the account was one option. Narrative, of course, was nothing new to historiography, but most episcopal chronicles had followed a form of historical representation reluctant to embed occurrences in a web of causes and effects.⁵⁹ Nor did they have to, as their organizing principle itself carried the main burden of meaning. For the continuators, however, narrative offered an instrument to establish an aura of truth without any symbolic reference to the dignity of the episcopal office. Bypassing the paradigmatic compositional structure, narrative bolstered the impression that event B was a logical (or contingent) result of event A.⁶⁰

The prime witness to this process of transformation, unsurpassed by all other continuations of episcopal chronicles in northern Germany, is the continuation of Ps.-Arnd Bevergern in Münster. Scholars of Westphalian history have long been lured by the story of the rise and fall of the seductive young count Johann of Hoya, who had attempted to push his brother Erik onto the Münster

⁵⁹ In this respect, the *gesta episcoporum* can be grouped together with historiographical genres such as annals; on the distinction between annals, chronicles and 'proper' histories, see GUENÉE, *Histoire et Culture historique dans l'Occident médiéval*, pp. 203-211.

⁶⁰ This is not the place to address in detail the question, so widely disputed among postmodern as well as more conservative theorists, whether the story told corresponds to any structure which 'reality' has to offer; see, however, WHITE, "The value of narrativity in the representation of reality", *passim*, who denounces an ontological difference between history and fiction, stressing the historian's power to configure the material according to preconceived ideas. For a medievalist's absorption of White's stance see FLEISCHMANN, "On the representation of history and fiction", esp. pp. 291-295. For the creation of a 'pseudo-reality' through narrative see also the illuminating study by G. SPIEGEL, *Romancing the Past: The Rise of Vernacular Prose Historiography in Thirteenth-Century France* (Berkeley, Los Angeles and Oxford, 1993: *The New Historicism* 23), esp. pp. 222-224.

see against the party of the counts of Moers. The vivid account of the events of the *Stiftsfehde* seemed appropriate to illustrate the bland theorems of the aristocratic contest for the consolidation of its territories, of the struggle between the old and new urban elites, or of a combination of both conflicts.⁶¹ Few, however, have taken the time to assess the continuation – and its persuasiveness – from a historiographical point of view.

The narrativizing effort begins with several reports on court cases concerning the jurisdiction of the Münster magistrate. Four of these are directly attached to the end of the vernacular translation of the existing chronicle, while four more are intertwined with the otherwise unobtrusive biography of bishop Henry II of Moers (1424-1450). Each case displays a different aspect of civic law, and all combine into a coherent picture which sets the stage for the subsequent account of the *Stiftsfehde*. In forming a narrative microstructure, the cases act not only as a thematic preliminary to what is to follow but also as a structural transition.

The account of the feud itself begins like any biography in the *gesta episcoporum* with the naming of the bishop – the bishop-elect Walram of Moers –, his ordinal number in the line of bishops and his genealogy. Instead of reporting Walram's deeds as spiritual and temporal leader, however, the author presents a dense description of the unwelcome entry of Johann, the *Jungherr* of Hoya, into the city of Münster. After only a few more sentences, the guild leader Arnd Bevergern is introduced, who later turns out to be Johann's adversary.⁶² What begins as an ordinary biography is soon transformed into the exposition of a coherent narrative including the presentation of individualized characters, the introduction of an initial conflict, and the anticipation, full of suspense, of the outcome. Within the next fifty or so paragraphs, all events are organized into distinctive sequences.⁶³ Separated by textual markers, these 'scenes' open the way for the introduction of action into the text. The reader is drawn into a tale of treason and betrayal, with the wicked Johann of Hoya starring as evil personified, to whom the unfortunate Arnd Bevergern must succumb time and again. While the main characters must decide between good and

⁶¹ The continuation of Ps.-Arnd Bevergern served historians of the nineteenth and the twentieth century as a preferred source for the reconstruction of what happened during the 'Münstersche Stiftsfehde'; see, for instance HANSEN, *Westfalen und Rheinland*, *passim*; KIRCHHOFF, "Die Unruhen in Münster/Westf. 1450-1457", esp. pp. 221-243; EHBRECHT, "Rat, Gilden und Gemeinde zwischen Hochmittelalter und Neuzeit", esp. pp. 135-137.

⁶² *Arnd Bevergern's münsterische Chronik*, pp. 255-256.

⁶³ In Ficker's edition, the account of the 'Stiftsfehde' fills 31 pages, while most biographies of the *Chronicle of Florenz* easily fit onto a single page or less.

evil behaviour, their every decision prompts the next sequence and helps the plot to unfold.

To further enhance his simulacrum of a world obeying the rules of cause and effect,⁶⁴ on three remarkable occasions the continuator decides to abandon his narrative's temporal axis. For the sake of composition and a suspenseful plot, he rearranges sequences disregarding the true order of events. This inversion allows him to have the third direct confrontation between protagonist (Arnd) and antagonist (Johann) mark the climax of this micro-epic, with Arnd just about to meet his death.⁶⁵

The fundamental transformation that can be observed in the continuation of Ps.-Arnd Bevergern is but one aspect of the chronicle as it was received by its medieval audience. That in Münster the process of 'emplotment' (to use the term coined by Hayden White) is restricted to a passage of limited length may be generalized into a comment on all continuations under discussion. As the continuators integrated the text of the existing *gesta episcoporum* into their account, they also kept the *gesta*'s mode of reporting. The paratactic chronicle of Florenz remained an integral part of the vernacular chronicle, while the author of the continuation of Ps.-Arnd Bevergern merely added to the unadorned translation. The same can be said for the chronicle of Rinesberg and Schene and its drawing on matter from the *Historia*. Except, of course, in the insertions. Some of these insertions also reveal an epic patterning alien to the passages immediately before and after, which were direct translations from Latin. Consequently, the later chronicles form hybrids both with respect to their mode of composition and regarding their effort to authenticate their matter.

Much as Ertwin Ertmanns' *Cronica episcoporum Osnaburgensium* is detailed and exhaustive, it maintains a detached and less engaging style, free from the urge to promote identification with a historical agent through narrative. Informative as it is, it lacks the epic rendition of events so peculiar to the two continuations discussed above. It does, however, exhibit a higher degree of

⁶⁴ I owe the idea of a narrative-as-simulacrum and of a creation of a "façade of objectivity" by having history told as a story to SPIEGEL, *Romancing the Past*, pp. 217-223 (quotation at p. 220). Although the narrativizing effort which may be discerned in the chronicles under scrutiny here bears some resemblance to the developments Spiegel describes, I would be reluctant to understand them as part of the same process; the link to "procedures originally developed for vernacular oral composition and performance" (p. 223), for instance, seems to be much less important for an understanding of the North German historiography of the late fourteenth and fifteenth centuries than it is for the earlier Old French prose chronicles.

⁶⁵ This technique is discussed in detail in PLESSOW, *Die umgeschriebene Geschichte*, chapters 8-9, *passim*.

coherence, because Ertmann used his materials to create an altogether new chronicle. What he shares with the two continuations is a reluctance to follow the compartmental type of writing of the *gesta episcoporum*. Where the continuations used narrative, he relied on the insertion of documents and charters. Ertmann must have considered it expedient to base his trustworthiness on his expertise as a jurist and official rather than on his ability as a storyteller.

5. Dialogue

The use of dialogue in the continuation of Ps.-Arnd Bevergern is indebted to the process of narrativization. In line with the style of most episcopal chronicles, the older chronicle of Florenz had left no room for this kind of embellishment, which since Antiquity had had its place in historiography.⁶⁶ In Münster, the continuator carefully positioned direct speech in passages carrying exceptional narrative weight. Speech was preferably assigned to the main characters in situations where life and death or the fate of the city and the diocese were at stake. It played a crucial role where protagonist (Arnd Bevergern), antagonist (Johann of Hoya) and the faltering but ultimately conscientious mediator (Erik of Hoya) interacted.⁶⁷ Dialogue is not merely an ornament; it carries the power to push the plot forward. Its narrative impact is supported by additional literary means. Action is placed in distinctive, meaningful settings: a conspicuous churchyard, the market, or the chamber of the city council (which is reserved for the key events). The introduction of dialogue into the Münster chronicle added to the impression of immediacy, which in turn added to the power of the text to assert that what was told was true.

The integration of dialogue into historical discourse is a phenomenon of Bremen historiography as well, and more in particular of the continuation of Rinesberg and Schene. The continuation stands out against the style of the *Historia archiepiscoporum Bremensium*, which had hardly ever featured direct speech.⁶⁸ Using dialogue is frequent in the contemporary passages of the con-

⁶⁶ PARTNER, "The new Cornificius", p. 11, counts the use of speeches among the traditions inherited from Antiquity.

⁶⁷ See, for instance the account of the climactic clash between Arnd Bevergern and Johann of Hoya, which depends heavily on the use of dialogue (*Arnd Bevergern's münsterische Chronik*, pp. 276-277).

⁶⁸ Where the *Historia* used direct speech, this was a direct translation from one of its sources; see, for instance the exclamation of gratitude for the return of archbishop Adaldag (Adam Bremensis, *Gesta Hammaburgensis ecclesiae pontificum*, II, c. 11, p. 69, and its Low

tinuation,⁶⁹ but it is especially noteworthy in the insertions. The best example is the dispute between a merchant from Lübeck and a merchant from Bremen over which city was the more venerable one. Composed as a lengthy see-saw of charges and ripostes, it contrasts markedly with the passages before and after.⁷⁰ In this case, too, the use of dialogue must be seen, just as the chronicle's resort to narrative, as an attempt to convince an audience that events in the realm of the cities qualified for true historical treatment.

In line with his seemingly objective style, Ertwin Ertmann abstained from any use of dialogue, and this again reflects the character of his way of writing history. In his writing on events in his own time, and even on events which he himself had witnessed, he made no effort to present history as a matter of eloquent historical persons with crucial speech acts. He did not despise oral testimony, it just did not fit in with his mode of historical representation to render it literally.⁷¹ It remains open to debate whether this absence of dialogue is due to his use of Latin. As far as speech is concerned, all that fitted into his discourse was the occasional noteworthy exclamation.⁷²

6. Eyewitness Reports – Authorial Presence

The late medieval North German episcopal chronicles mostly followed a historiographical style without narrator involvement.⁷³ Both the *Historia*

German translation in *Die Chroniken der niedersächsischen Städte: Bremen*, p. 14), or the priest's refusal to let archbishop Adalbert partake of the Holy Communion (Adam Bremensis, *Gesta Hammaburgensis ecclesiae pontificum*, III, c. 68, p. 216 (only in manuscripts B and C) and its Low German translation in *Die Chroniken der niedersächsischen Städte: Bremen*, p. 37).

⁶⁹ See, for instance the dispute between those Frisian chieftains willing to continue the unsuccessful assault on the Friedeburg 1418 and those eager to leave the scene (*Die Chroniken der niedersächsischen Städte: Bremen*, pp. 211-212). Foreboding the ill fate of the assailants, the passage shows how dialogue could be used as a tool to push the plot forward in the chronicle of Rinesberg and Schene.

⁷⁰ *Die Chroniken der niedersächsischen Städte: Bremen*, pp. 97-103.

⁷¹ See, for instance, the passage where Ertmann relates events which he heard from Conrad of Diepholz: "*Audivi tamen a reverendo domino Conrado de Deypholte postmodum episcopo Osnaburgensi*" (*Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 168).

⁷² While some exclamations are in Latin, others are the only instances of Ertmann using Low German in his chronicle; see, for instance, *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, pp. 118-119 ("He, he hadde eyn borch") and p. 119 ("Mantel Godes, de barnklau vlu ne werlle").

⁷³ This contrasts noticeably with earlier examples of the genre; see SOT, *Gesta episcoporum*

archiepiscoporum Bremensium and the Chronicle of Florenz of Wevelinghoven dispensed with the intervention of an authorial *ego*. To report the deeds of the bishops was a means of authenticating them. Ostensibly the report needed no further backing by any authority, neither in those passages taking the account up to the chronicler's own time nor in the few sections in which events were narrated. There are not even claims that what was told was true: in the cultural environment of the cathedrals which generated and maintained these chronicles, their truth must have seemed self-evident.

The one place to display an authorial self-consciousness would have been the prologue.⁷⁴ The original recension of the Chronicle of Florenz had featured a topical preface in which the bishop had justified the need for having the chronicle written. In the subsequent transmission of the chronicle, this prologue was soon erased from the text. Today it survives only in a single early modern manuscript and its copy.⁷⁵ To readers of the late fourteenth and early fifteenth centuries, the chronicler not only remained anonymous, he also refrained from mediating between the text and its audience.

When historiographic activity moved towards the towns, however, things changed. In Osnabrück, Ertwin Ertmann established himself firmly as the authorial voice in charge of the account. It is always clear who vouches for the veracity of what is told. Very early on in the text, he attaches his proper name and status to the *ego* presenting the historical discourse, putting his standing as a magistrate behind it: "*ego Ertwynus Ertman utriusque juris quandoque in studio privilegiato inbecellis scholaris, exnunc inutilis proconsul civitatis Osnaburgensis*".⁷⁶

There have been discussions about the role of the eyewitness and the personal experience of the author in medieval historiography.⁷⁷ It is interesting that

– *Gesta abbatum*, pp. 26-27.

⁷⁴ See M. SOT, "Rhétorique et technique dans les préfaces des 'gesta episcoporum' ", *Cahiers de civilisation médiévale* 28 (1985), pp. 181-200.

⁷⁵ MS Hannover, Niedersächsische Landesbibliothek, Msc. XXII 1383, pp. 1-2, dating from the seventeenth century; MS Münster, Bistumsarchiv, Domarchiv, Hs. 43, pp. 1-2, a copy from the same century. The prologue is rendered in *Florenz von Wevelinkhoven's Chronik der Bischöfe von Münster*, pp. 1-2.

⁷⁶ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 22.

⁷⁷ See, for instance SPIEGEL, *Romancing the Past*, pp. 218-219 (resort to eyewitnesses and personal experience of the chronicler as a typical means to legitimate contemporary chronicles as opposed to a "prestige guaranteed by the use of prior Latin sources"); or J.M.A. BEER, *Narrative Conventions of Truth in the Middle Ages* (Genève, 1981: *Études de philologie et d'histoire* 38), pp. 23-34 (an account of events personally experienced is considered early on to be the most reliable). In the light of the variety of medieval historiography and the plurality of

Ertmann made an effort to authenticate secondhand information through his personal mediation. In doing so, however, he did not value written testimony over oral testimony or vice versa. To him, remarking upon his personal inspection of a charter (“*vidi ... et legi litteras*”)⁷⁸ was as good a means to safeguard credibility as was the introduction of oral testimony by credible witnesses (“*audivi ab fidedignis*”).⁷⁹ Written in the last two decades of the fifteenth century, his reports end with the events of the year 1454, and it is generally assumed that only his death kept him from continuing up to his own days.⁸⁰ One might have expected the mayor and episcopal counsellor to have attempted to reinforce his truth claim by revealing more about his own role in the events to come. We can grasp this tendency in some passages towards the end of the narrative, where Ertwin Ertmann displayed no sign of humble modesty about his own actions (“*extunc ego Ertwinus Ertman absolucionem ad cautelam ab imperatoria majestate predicta impretavi*”).⁸¹

A new prologue preceded the translation, interpolation and continuation of the earlier *Historia archiepiscoporum* in Bremen. By ascribing the work to Rinesberg and Schene, it supplied the narrative with a new authority that took responsibility for it. In the main body of the text, the discourse often shifts from the third to the first person. The editor, Meinert, who listed all uses of *ick* and *wy* in the chronicle, painstakingly attempted to identify these occurrences with either Rinesberg, Schene, or Hemeling – an effort that has been as meticulously denounced as futile by others.⁸² Very different from the use of the first person

its generic conventions, one must question the general validity of FLEISCHMANN, “On the representation of history and fiction”, p. 296, who claims that narrative distance – that is, the lack of a perceptible narrator – was a mark of “fictional discourse”, whereas “narrative immediacy” was “a mark of historical discourse”.

⁷⁸ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 116.

⁷⁹ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 147. CLANCHY, *From Memory to Written Record*, esp. pp. 206–211, and others have convincingly made the point that trust put in what one had personally seen or heard historically preceded trust in writing. By the late Middle Ages, however, the written had long been accepted as an authentic medium. See SHOPKOW, *History and Community*, pp. 125–126, 137, for the problem of the preference given to either oral or written evidence in eleventh- and twelfth-century Norman historiography.

⁸⁰ See *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, “Einleitung”, pp. XXXIV–XXXVI, esp. p. XXXV, and p. 173 with note 1.

⁸¹ *Ertwini Ertmanni Cronica sive catalogus episcoporum Osnaburgensium*, p. 158. For Ertman writing on his own activities, see also *ibid.*, p. 172.

⁸² *Die Chroniken der niedersächsischen Städte: Bremen*, “Einleitung”, pp. XXIV–XXVIII, XXX. For criticism of Meinert’s attempt to identify particular passages with one of the chroniclers see SCHWARZWÄLDER, “Die Chronik von Rinesberch und Schene”, p. 35; WRIEDT, “Bürgerliche

singular by Ertwin Ertmann, there is no way of connecting either *ick* or *wy* with any distinct person. Any interpretation must take these differences into account; they must also be considered from the perspective of the means used to assert truth. Instead of understanding the use of the first person as a device of personal authorization by a chronicler, it should be understood as a textual tool which created increased immediacy. It was but one of a whole range of narrativizing elements.

This line of thought is supported by the situation in Münster. Here, the presence of an authorial *ego* can also be detected; here too it remains anonymous. There are apostrophes guiding the reader to an understanding of the events. Often, they conclude a sequence full of suspense, giving the gist of what has been told. Right at the beginning of the *vita* of Walram of Moers, for instance, when the account shifts from the ordinary biography of a bishop to the extended narrative, in the continuation of Ps.-Arnd Bevergern the narrator intervenes. He deplores the schismatic election because of the subsequent war and the misfortune it brought with it.⁸³ The commentator also summarizes the climactic culmination of the clash between Arnd Bevergern and Johann of Hoya:

By these aforementioned items and by others every honest man can detect and prove how true squire Johann was to the welfare of the city of Münster or not.

*By dussen voergeschreven puncten unde anderenn puncten so mach eyn ytlick berve man mercken unde proeven, myt wat truwen unde geloven dat iuncker Johan de stadt van Munster mende offte nicht.*⁸⁴

There is also the occasional change from the third to the first person. Similar to the chronicle of Rinesberg and Schene, no proper name is attached to the changed pronoun. Though they are few, these occurrences of *ick* and *wy* have caused the author of the continuation to be identified with Arnd Bevergern, who in the narrative is usually referred to in the third person. It must be stressed, however, that for chronological reasons it is highly doubtful whether Arnd Bevergern could have written it.⁸⁵ It is more instructive to follow these textual tools in the context of the narrativizing effort. It is revealing that the narrator's comments play a role in syntagmatically connecting sequences with

Geschichtsschreibung im 15. und 16. Jahrhundert", pp. 38-39.

⁸³ Arnd Bevergern's *münsterische Chronik*, p. 255.

⁸⁴ Arnd Bevergern's *münsterische Chronik*, p. 277.

⁸⁵ See PLESSOW, *Die umgeschriebene Geschichte*, pp. 432-441.

each other; they may also act as harbingers of events yet to come. Simultaneously, the first-person pronouns are always to be found near segments or within passages crucial for the plot as it will unfold.

If we view the examples from Bremen and Münster together, it is interesting that both continuations share sudden, unexpected transitions from a third-person to a first-person narrator. Both in Münster and in Bremen one is left in doubt as to who was responsible for the production of the narrative. These textual tools do not directly verify anything. It is therefore advisable not to understand them as a mechanism to authenticate the report by attaching the aura of an authorial voice to it. Instead, they add to the general sense of immediacy resulting from the use of narrative.

7. Choice of Language – Prose and Verse

Two problems not touched upon here in detail are the choice of language and the decision to write the historical narrative in either prose or verse. It is necessary, though, to address them briefly, for both were important criteria in other times and places for the veracity of historical texts. Compared with other regions, little importance was attached to these matters in the North German chronicles surveyed here. French chroniclers had been the first to deem the use of rhymed verse inappropriate for true accounts; at the end of the twelfth and in the beginning of the thirteenth century they had resorted to prose.⁸⁶ In Germany, verse historiography prevailed until the middle of the fourteenth century.⁸⁷ At the time our chronicles were written, however, the choices made were no longer of much concern. In the second half of the fourteenth and in the fifteenth centuries, all combinations were possible. For the most part written in prose, the Latin *Historia archiepiscoporum Bremensium* includes two *vitae* written in hexameter and rhyming quatrains.⁸⁸ Whereas by then most vernacular historiography was in prose, the first episcopal chronicle of the cathedral of Osnabrück was written in four-beat Low German rhyming couplets as late as

⁸⁶ See, for instance SPIEGEL, *Romancing the Past*, pp. 55–69; see also GUENÉE, *Histoire et culture historique dans l'Occident médiéval*, pp. 221–222.

⁸⁷ See GUENÉE, *Histoire et culture historique dans l'Occident médiéval*, p. 222.

⁸⁸ *Historia archiepiscoporum Bremensium*, pp. 25–45.

the 1450s.⁸⁹ It is fair to conclude that these alternatives had no impact on the production of truth.

The choice of language does not appear to have had any influence on the credibility of the text either. The shift from Latin to the vernacular should be seen as a tribute to the townspeople, a new group of recipients of historiographical works, but who were accustomed to the use of the vernacular for a variety of practical purposes.⁹⁰ Even if one thinks that the choice might have been meaningful – Gerhard Diehl, for instance holds that Ertmann's esteem for Latin may be viewed in the light of his conscious refusal to treat urban affairs – there is no indication that it increased or decreased the trustworthiness of the text.⁹¹

Conclusion

The three texts surveyed here participated in a broader development that had affected chronicles with a regional focus ever since the rise of urban literacy in the high and late Middle Ages. Coming from an almost uniform cultural background and from a comparable contextual setting, they all represent the transition from episcopal to urban historiography. In spite of their relative homogeneity, however, they display a variety of means to promote the trustworthiness of their account. I have sketched this diversity under the headings of 'use of charters', 'use of proper names', 'narrativization', 'use of dialogue',

⁸⁹ *Reimchronik der Bischöfe von Osnabrück bis 1454*, ed. H. FORST in: *Die Chroniken des Mittelalters*, ed. F. PHILIPPI and H. FORST (Osnabrück, 1891 [reprint Osnabrück, 1977]: *Osnabrücker Geschichtsquellen* 1), pp. 7-18.

⁹⁰ Rolf Sprandel has shown that Latin was the predominant language used for episcopal historiography, while German was the language of choice for urban historiography (R. SPRANDEL, *Chronisten als Zeitzeugen: Forschungen zur spätmittelalterlichen Geschichtsschreibung in Deutschland* (Köln, Weimar and Wien, 1994: *Kollektive Einstellungen und sozialer Wandel im Mittelalter* 3), pp. 124-127). Although one is inclined to support Sprandel's conclusions, stressing as they do the importance of the recipients' needs, caution is necessary in each individual case. In the absence of reliable knowledge about the owners and keepers of the Münster chronicles, for instance, it goes too far to conclude the reception in the town solely because of the choice of language, as does C. HRUSCHKA, *Kriegsführung und Geschichtsschreibung im Spätmittelalter: Eine Untersuchung zur Chronistik der Konzilszeit* (Köln, Weimar and Wien, 2001: *Kollektive Einstellungen und sozialer Wandel im Mittelalter* N.F. 5), p. 41, discussing the Low German translation of the chronicle of Florenz of Wevelinghoven. For a detailed discussion see PLESSOW, *Die umgeschriebene Geschichte*, p. 304.

⁹¹ DIEHL, *Exempla für eine sich wandelnde Welt*, p. 65.

‘the introduction of eye-witnesses’ and ‘narrator involvement’, in the hope to detect a common ground in the methods of these chroniclers. This search yielded negative results. Clearly not only the means of authentication differed, but the same device could be used in different ways. The differences in the use of a first-person narrator by Ertwin Ertman on the one hand and by the continuators from Bremen and Münster on the other show this very clearly.

But ought we to have expected greater conformity? First, our choice to select texts from a period of transition has to be taken into account. As limited as the scope of our investigation was, it cast a spotlight on a genre in change, at a time when the reorganization of conventions was contingent. Secondly, the chronicles of Rinesberg and Schene and that of Ps.-Arnd Bevergern are not only alike in their contextual setting, but also in their use of means of authentication. In their narrativizing efforts, urban chroniclers in Münster and Bremen found similar solutions to the problem of transforming an episcopal chronicle into a text suited to the needs of the towns. Ertwin Ertmann differs from them by his ample use of documents and charters, but this may be explained by his special status as a jurist and a (legal) counsellor to the bishop. And finally, in spite of all diversification of the mechanisms by which a truth claim could be communicated, one must realize that the chroniclers did not spontaneously invent new ways of creating credibility. Instead, they drew on devices well known from other types of historiography and other modes of writing. Their keeping to the tradition of the *gesta episcoporum* reveals that they all thought it to their advantage to continue to draw on the legitimizing power inherent in a well-established genre. Despite the plurality of means employed, their ways of advancing trust in writing should, if anything, be considered as a hybrid of traditional forms, fashioned to satisfy changed needs in authenticating the historical account.

Trust and Visualization: Illustrated Chronicles in the Late Middle Ages: The Swiss Illustrated Chronicle by Diebold Schilling from Luzern, 1513

JEANNETTE RAUSCHERT

Town chancellors, who were the people directing urban administration, have not received enough attention in research as driving forces behind 'pragmatic literacy'. It has to be assumed that their duties, apart from menial administrative work, were much more important for the establishment of forms of authority based on writing than has so far been acknowledged. Chancellors contributed significantly to the establishment of a cultural practice involving writing and to the development of corresponding notions of leadership. In the present discussion on the communicative changes in pre-modern societies this aspect has only rarely been touched upon by historical scholarship.¹ For a long time research on chancellors was preoccupied with matters of administrative and educational concern.² Meanwhile, the chancellors increasingly came to be perceived as a European intellectual class and as agents in the process of literacy. However, the arguments for these assertions could not com-

¹ See the new approaches by students of literature in *Europa: Kultur der Sekretäre*, ed. B. SIEGERT and J. VOGL (Zürich and Berlin, 2003). The volume contains two contributions concerning the Middle Ages: J.-D. MÜLLER, "Archiv und Monument: Die Kultur der Sekretäre um 1500", pp. 13-27 and H. WENZEL, "Sekretäre – heimliche: Der Schauraum öffentlicher Repräsentation und die Verwaltung des Geheimen", pp. 28-43.

² See, e.g. M. KINTZINGER, *Das Bildungswesen der Stadt Braunschweig im hohen und späten Mittelalter* (Köln, 1990); U.M. ZAHND, "Studium und Kanzlei: Der Bildungsweg von Stadt- und Ratsschreibern in eidgenössischen Städten des ausgehenden Mittelalters", in: *Gelehrte im Reich: Zur Sozial- und Wirkungsgeschichte akademischer Eliten des 14. und 16. Jahrhunderts*, ed. R.C. SCHWINGES (Berlin, 1996), pp. 453-476.

pletely convince, since they postulated the piecemeal transfer by the intellectual elite of the new techniques of writing to more remote cities or towns, once new social needs had developed. It has to be surmised that the gradual spread of writing in politics, law and society was a much more radical process, which was entwined with the formation of specific strategies of legitimation, and that it was not just an adaptation of new techniques of writing. If so, the role of the chancellor as a person of public authority and trust must have been crucial. The main thesis of this contribution is that trust in the written word was closely connected with trust in the chancellor. The strategies of legitimation of an increasingly closed upper class of town councillors, who based their claim to power on the existence of written rights, are matter for reflection. They are manifest in the texts and images of chronicles, produced at the beginning of the sixteenth century.³ The focus of the following contribution will be on the visualization of the main ideas on communication in these late medieval illustrated chronicles.

The first wave of Swiss historiography is known particularly for its illustrated chronicles. This has often been pointed out.⁴ Particularly interesting and extraordinarily valuable are the profusely illustrated chronicles produced by two members of the influential Schilling family of fifteenth-century chancellors in Luzern and Bern. Both were called Diebold Schilling; they were uncle and nephew. They left behind a corpus of chronicles, each with several hundred illustrations in colour. The older Schilling, the so-called 'Bern Schilling', has merited special attention for introducing a particular new type of illustrated chronicles in the old Swiss Confederation.⁵ The following pages, however, will be dedicated to his nephew, the so-called 'Luzern Schilling'.

The younger and the older Schilling were both at different times connected to the Luzern chancery. The older Schilling was working there as *Unterschreiber* (assistant clerk) between 1456 and 1459, before he started his career

³ Peter Rück pointed out that until now the impact of the chancery's organisation on the historiography has not received the attention it deserves. P. RÜCK, "Kanzlei und Chronistik in der spätmittelalterlichen Schweiz", in: *Cancellaria e cultura nel Medio Evo: XVI Congresso di Scienze Storiche (Stoccarda 29. – 30. August 1985)*, ed. G. GUALDO (Città del Vaticano, 1990), p. 131.

⁴ R. FELLER, E. BONJOUR, *Geschichtsschreibung der Schweiz: 1. Vom Spätmittelalter zur Neuzeit*, 2nd edn. (Basel and Stuttgart, 1979), pp. 4 ff.; J.-P. BODMER, *Chroniken und Chronisten im Spätmittelalter* (Bern, 1976: *Monographien zur Schweizerischen Geschichte* 10), pp. 41 ff.; RÜCK, "Kanzlei und Chronistik in der spätmittelalterlichen Schweiz", p. 130.

⁵ C.G. BAUMANN, *Über die Entstehung der ältesten Schweizer Bilderchroniken (1468-1485)* (Bern, 1971). C. PFAFF, "Staat und Gesellschaft im Spiegel der Chronikillustration des Berner und des Luzerner Schilling", *Der Geschichtsfreund* 135 (1982), pp. 89-116.

in Bern as *Unterschreiber*, and later as *Seckelschreiber* (clerk of the treasurer) and *Gerichtsschreiber* (court clerk).⁶

Diebold Schilling the Younger, who developed his multifaceted activities in the last decades of the fifteenth century, never worked in the Luzern chancery.⁷ However, as the occasional help of his father, Johannes Schilling, who was the brother of the 'Bern Schilling' and *Unterschreiber* in Luzern, he must have been in close contact with the chancery.⁸ He also worked occasionally as a notary and was involved in the political conflicts in Northern Italy at the beginning of the sixteenth century as an agent of Emperor Maximilian I.⁹ In this ambience of personal experience, urban and federal interests, he started work on his illustrated chronicle, which he completed in 1513.

The expressive and very detailed illustrations of his chronicle have as yet never been examined in the context of the history of communication.¹⁰ This contribution can only outline the substantial body of questions that may be asked; it will concentrate on the question of the interrelation between trust and visualization.

⁶ PFAFF, *Staat und Gesellschaft*, p. 91.

⁷ About the Schilling family of chancellors in general: C. PFAFF, "Die Familie Schilling", in: *Die Luzerner Chronik des Diebold Schilling 1513: Kommentar zur Faksimile-Ausgabe der Handschrift S. 23 fol. in der Zentralbibliothek Luzern*, ed. A.A. SCHMID (Luzern, 1981), pp. 535-540; K. WANNER, "Schreiber, Chronisten und Frühhumanisten in der Luzerner Stadtkanzlei des 15. Jahrhunderts", *Jahrbuch der Historischen Gesellschaft Luzern* 18 (2000), pp. 29-31; cf. BODMER, *Chroniken und Chronisten im Spätmittelalter*, pp. 41 ff.; SCHMID, in: *Die Luzerner Chronik*, p. 123.

⁸ WANNER, "Schreiber, Chronisten und Frühhumanisten", pp. 23-31.

⁹ About the structure and construction of the *Chronicle* see P. LADNER, "Codicologische und paläographische Untersuchung", in: *Die Luzerner Chronik*, pp. 541-558; P. RÜCK, "Diebold Schilling für des Kaisers Sache: Zur Konstruktion der Chronik 1507-1513", *ibid.*, pp. 559-574, at p. 559; R. SCHMID, "Geschichte im Bild – Geschichte im Text", in: *Literatur und Wandmalerei, 1: Erscheinungsformen höfischer Kultur und ihre Träger im Mittelalter. Freiburger Colloquium 1998*, ed. E.C. LUTZ and J. THALI (Tübingen, 2002), pp. 529-558.

¹⁰ In the early 1980s, Carl Pfaff was the first to understand the full iconographical value of both Schillings' illustrations in terms of the representation of late medieval state-like structures. In the works of the 'Luzern Schilling', he found the most meaningful examples. See C. PFAFF, "Staat und Gesellschaft", pp. 89-116, at p. 101. For further discussions of the Schillings' work, see J. RAUSCHERT, *Herrschaft und Schrift: Strategien der Inszenierung und Funktionalisierung von Texten in Luzern und Bern am Ende des Mittelalters* (Berlin and New York, 2006).

The Chancellor: Person of Public Authority and Trust

The many-layered activities of the Schillings as a family of chancellors took place in a period in which the exercise of power was being increasingly intensified. From the second half of the fifteenth century onwards, the job description of chancellors underwent profound changes.¹¹ These changes not only concerned an increase in the amount of work and its diversity, but also the institutional and personal entanglement of the chancellor and his office with the political leadership. The group of leaders increasingly made use of writing in the exercise of power.¹²

As far as the social roots of the Luzern chancellor are concerned, two aspects have to be mentioned. First, in the fourteenth century and the first decades of the fifteenth century, chancellors who had come from outside tended to be replaced by Luzern citizens. Secondly, since the 1460s the chancellors were mainly recruited among the members of powerful families with seats on the town council.¹³ It seems that the skill of writing was no longer enough; the chancellors now had to be integrated in the political system and family networks. Coming from an important political family and having a seat on the town council or on the jury helped. In the end this meant that the office came to be reserved for men from the leading families. The management function was dissociated from the menial task of writing.

Often the chancellor was supported in practical, administrative matters by an experienced clerk, called *Unterschreiber*. Diebold and his father Johannes, who worked as a clerk in Luzern, therefore did not belong to the upper crust of the chancellors of Luzern, but worked as assistants, *Unterschreiber*.¹⁴

¹¹ P.X. WEBER, "Beiträge zur älteren Bildungsgeschichte", *Der Geschichtsfreund* 79 (1924), pp. 1-77. F. GLAUSER, "Die Schreiber der Luzerner Kanzlei vor 1798", *Der Geschichtsfreund* 114 (1961), pp. 86-111. J. KURMANN, *Die politische Führungsschicht in Luzern, 1450-1500* (Luzern, 1976). K. MESSMER and P. HOPPE, *Luzerner Patriziat: Sozial- und wirtschaftsgeschichtliche Studien zur Entstehung und Entwicklung im 16. und 17. Jahrhundert* (Luzern and München, 1976; *Luzerner Historische Veröffentlichungen* 5). WANNER, "Schreiber, Chronisten und Frühhumanisten", pp. 2-44. RAUSCHERT, *Herrschaft und Schrift*, p. 78.

¹² F. GLAUSER, "Frühe Landeshoheit und Landvogteigrenzen im Kanton Luzern", in: *Die Luzerner Pfarreien und Landvogteien: Ausbildung der Landeshoheit, Verlauf der Landvogteigrenzen, Beschreibung der Pfarreien*, ed. F. GLAUSER and J.J. SIEGRIST (Luzern and München, 1977; *Luzerner Historische Veröffentlichungen* 7), pp. 1-114. A. GÖSSI, "Die Verwaltung der Stadt Luzern und ihr Schriftgut im späten 14. Jahrhundert", in: *Luzern 1178-1978: Beiträge zur Geschichte der Stadt*, published by the Stiftung Stadtjubiläum 800 Jahre Luzern (Luzern, 1978), pp. 171-197.

¹³ WANNER, "Schreiber, Chronisten und Frühhumanisten", pp. 43-44.

¹⁴ PFAFF, "Die Familie Schilling", pp. 535-540.

Considering the personal and institutional ties between town chancellor and town council, it is not surprising that most fifteenth-century administrative innovation was instigated by the chancellor. Efforts were made to belittle his powerful position, as the town chancellor through his handwriting had the exclusive right to bestow authority and validity upon deeds and other official documents. Since 1427 the chancellors had to swear to obey the council and to treat the municipal books confidentially.¹⁵ Particularly because of their assignments everywhere in the territory of Luzern, they became the main driving force behind broad-based literacy. The chancellor increasingly came to be seen as a public person, the more so because he regularly enacted political order, just when political order gained importance towards the end of the fifteenth century through the increasing accumulation of power. The chancellor acted as master of ceremony and read out the fundamental legal texts. Chancellors were at the centre of the lawful exercise of authority, and the town citizens regularly had to swear oaths to them. It is no surprise that the well-being of the town was at times identified with the well-being of the chancellor.¹⁶

The chancellors did not solely act by order of the town authorities. Their mobility and their access to wider political networks opened up possibilities for activities on their own. These were not always in line with the interests of the town. Hostility and allegations of forgery and fraud could result in their being degraded in their position as chancellor, or even in temporary exclusion from their office. Johannes Schilling, the father of the ‘Luzern Schilling’, had to endure this several times.¹⁷ The ambivalence of the councillor’s office, with the recurrent problem of striking a balance between confidentiality and public power associated with the written word, accounted for the chancellor’s extremely powerful position.

¹⁵ ‘Eid des Stadtschreibers’, in: Luzern, Staatsarchiv des Kantons Luzern, RP 1, f. 323v. In later times even the *Unterschreiber* had to confirm his oath. In doing so, he committed himself not to disclose the books of the chancery to anyone without the permission of the council nor to have them taken away. See WANNER, “Schreiber, Chronisten und Frühhumanisten”, p. 10.

¹⁶ “Es gat übel ze Luzern, der schriber ist tot ...”, in: Luzern, Staatsarchiv des Kantons Luzern, RP 4, f. 109v.

¹⁷ WANNER, “Schreiber, Chronisten und Frühhumanisten”, p. 25.

Performances of the Written Word in Images and Text

Only a few facts are known about the production of the Younger Schilling's illustrated chronicle. The thesis that he wrote for Emperor Maximilian has recently been disputed.¹⁸ Ever since 1497 Schilling had handled the classified correspondence with Milan; he had belonged to the anti-French, pro-Milanese Party in Luzern. When the duke of Milan became French in 1500, Schilling gradually turned to the imperial party. In 1507, by invitation of Emperor Maximilian I, he participated in the Imperial Diet at Konstanz. His chronicle was doubtlessly intended to gain Luzern for the pro-Milanese party.¹⁹ Between 1511 and 1513, as he was writing the chronicle, disputes took place both in the municipal and in the federal party. Revolts broke out everywhere, and conflicts arose about the pensions of mercenaries. The chronicle may therefore have been primarily been intended for the Luzern authorities, and, with them as intermediaries, also for other members of the Confederation. The chronicler also wished the loyalty of the Swiss Confederation as a whole to remain intact, as becomes clear from Schilling's appeals to brotherly love, mutual support and the adherence to chartered rights.²⁰ The chronicle's aim can also be deduced from the more than four hundred detailed and splendid illustrations, two-thirds of which were done by Schilling himself and his subaltern assistants.²¹ In most images Schilling seems to conjure up the old ideals. There is loyalty to the text, which gives the gist of the federal canon of morals and the tradition, both of which are given a distinctive iconography. The images show events rather than illustrate the text. Image and text are not always complementary; they represent two different threads of the narration. They have to be put together to create the chronicle. More than other chroniclers Schilling was said to instruct by means of history, to provide images reminiscent of the frescoes on church walls and, in addition, to preach.²²

It seems as if Schilling wanted to outline the single events essentially on the foundation of their communicative substratum. In his illustrations, contemporary perceptions of the use and meaning of the written word and its visualization can be discerned. Moreover, he clearly shows the cooperation of different

¹⁸ The thesis of Rück has recently been disputed by SCHMID, "Geschichte im Bild – Geschichte im Text", p. 549. Cf. RÜCK, "Diebold Schilling", p. 559.

¹⁹ RÜCK, "Diebold Schilling", pp. 559-561.

²⁰ SCHMID, "Geschichte im Bild – Geschichte im Text", p. 548.

²¹ About the illustrations in general, see: A.A. SCHMID, "Die Illustrationen: Stil und Meisterfrage", in: *Die Luzerner Chronik*, pp. 679-706.

²² RÜCK, "Diebold Schilling", pp. 572 ff.

communicative registers by having the spoken word, gesture, attire and other signs act as agents of information. The different events take place in a profusely decorated ambience, giving a specific meaning to the depicted acts of writing and the documents themselves with a particular iconography. The town hall, i.e. the urban power centre and a frequent meeting-place for the Swiss Diet, and public squares are his stages. On them, members of the council, messengers, chancellors, foreign and domestic authorities appear. They all move the big events of politics along by negotiating, swearing, writing and reading in mutual cooperation.

I will focus on three examples of writing and political action in the so-called Luzern Illustrated Chronicle of 1513.

Places of Political Action: The Town Hall as an Urban Centre of Power with a Sacral Touch

Although Schilling's chronicle only rarely mentions the history of his town, the town hall of Luzern very often is the stage of political interaction and representation.²³ In many illustrations he depicts the interior of this municipal centre of power, which was then not open to the public (fig. 1). In one of these interior views, Schilling shows the members of the council with the mayor. Around them are symbols of a specific confederate and urban iconography: inlaid in the single window panes are heraldic symbols of the eight old Confederates. In the middle of one window is shown St. Leodegar, one of Luzern's patrons. He stands for the town as a community, united in religious glorification and rituals, and he is also a symbol of political interaction, which finds its legitimacy in Christianity. In the illustration, the chancellor is handing the chronicle to a member of the council. Because the surroundings are full of symbols, this piece of writing is elevated to a level of power and authority sanctioned by God and the Confederates.

Schilling's idyllic depiction is not just a product of his imagination. Shortly after 1500, all windows of the town hall had been renewed.²⁴ It is known that next to the window panes with the eight old Confederates, including Luzern,

²³ P.F. KOPP, *Schweizerische Ratsaltertümer: Bewegliche Rathaus-Ausstattung von den Anfängen bis zum Untergang der alten Eidgenossenschaft* (Zürich, 1972). B. ROECK, "Rathaus und Reichsstadt", in: *Stadt und Repräsentation*, ed. B. KIRCHGÄSSNER und H.-P. BECHT, (Sigmaringen, 1995: *Stadt in der Geschichte* 21), pp. 93-114.

²⁴ A. REINLE, *Die Kunstdenkmäler des Kantons Luzern*, 3, 2nd Part (Basel, 1954), p. 6.

there was also a pane with St. Leodegar. In addition, in a niche between two windows there must have been the statue of the second patron of the town, St. Maurice with his shield and banner. There were also other references to the history of the Confederation. In the main hall there was a painting of the battle of Murten (near Bern) of 1476, which had been an important event for the self-confidence and solidarity among the eight old Confederates.²⁵ Obviously, these symbols were intended to create an atmosphere which helped to raise a feeling of unity and strengthen a common identity. These visual images were mainly aimed at the town council and ambassadors, rather than at common citizens.

There were also iconographic references to Luzern's tradition of codified law. Just about when the chronicle was completed, the covers of the so-called *Silberne Buch*, the parchment codex containing copies of the most important liberties, privileges and statutes, were renewed in the emblematic colours of Luzern, i.e. blue and white.²⁶ In this way, public access to the legal tradition was expressed visually. The codex was now unmistakably a document with increased authority. It had become a symbol of power and was presented in the town hall in the same way as the Bible was presented in church.²⁷ It is hard to tell how much this conjunction of written tradition and the town's visual symbolism was integrated into the town hall's pictorial programme. The impact of the images in the chronicle must have fostered integration, thereby enhancing the text's credibility.

Public Manifestation of Legal Writings: The Oath

In his illustrations, Schilling emphasizes people taking oaths (fig. 2). Repeatedly he focuses on the participants taking an oath as a social act constituting medieval society; he shows the importance of the oath as a manifestation of political and social agreement.²⁸ This is not an oath signifying the citizens'

²⁵ C. 1497. See REINLE, *Die Kunstdenkmäler des Kantons Luzern*, p. 6.

²⁶ REINLE, *Kunstdenkmäler des Kantons Luzern*, p. 48.

²⁷ P.X. WEBER, "Der Kanton Luzern vom eidgenössischen Bund bis zum Ende des 15. Jahrhunderts", in: *Geschichte des Kantons Luzern von der Urzeit bis zum Jahre 1500* (Luzern, 1932), p. 846.

²⁸ W. EBEL, *Der Bürgereid als Geltungsgrund und Gestaltungsprinzip des deutschen mittelalterlichen Stadtrechts* (Weimar, 1958); O.G. OEXLE, "Friede durch Verschwörung", in: *Träger und Instrumentarien des Friedens im Hohen und Späten Mittelalter*, ed. J. FRIED (Sigmaringen, 1996: *Vorträge und Forschungen* 43); pp. 115-150. P. PRODI, *Das Sakrament der Herrschaft: Der politische Eid in der Verfassungsgeschichte des Okzidents* (Berlin, 1997: *Schriften des Italienisch-Deutschen Historischen Instituts in Trient* 11).

obedience, but an oath paying respect to a legal text and the political system behind it. Those taking the oath are all equal; they agree to the rules written in the legal text. The oath has meaning beyond that of a ritual prescribed by the law. It is the manifestation of a public act, which only works in public. It is the communicative essence of making use of legal power and accepting it.

The oath as a mutual agreement is depicted more than a few times in Schilling's illustrations. He always uses the same pattern: the chancellor reciting from a legal text and another person representing the town authorities are depicted as if they are standing higher; it may be assumed that they are standing on an elevated platform. They are shown frontally, while the congregated citizens standing before them are shown from the back, with the viewer seemingly being one of them. As they are looking at the illustration, viewers become part of the crowd. The assembled citizens listen attentively to the chancellor's recitation and show their agreement to what is being said by raising their hand. The chancellor holds the document in his hands and reads from it in the presence of a mayor and a town courier. They give an official touch to the scene. Verbal communication is supported by non-verbal communication. The clothes worn, their colours, the accessories and emblems of various kinds as well as the gestures support the importance of the scene. The charters are visible as they are read out. They are integrated in a symbolic setting, and are presented in a public enactment.

The text has a double meaning. It is made up of signs, i.e. the single letters which form the content of the text; and it is a symbol in itself, as it receives political legitimacy by being shown in public. Schilling pays tribute to these two meanings by combining text and image in his chronicle. In this way he illustrates both the material side of the text and its value as a carrier of information.

Political Processes: Enforcement of Law and Order, Based on Written Records

Schilling also shows new forms of administrative literacy. He does this in specific situations, depicting a succession of different activities meant mainly to enforce or use legitimate authority. The important moments are shown in separate illustrations, reminding one of today's cartoons. The aim is to show how carefully the town authorities work within their legal system. This system is concerned with the efficiency and coordination of carrying out the various

municipal tasks, but it is also founded on written documents recording the finding of legal truth. In Schilling's chronicle one can even find illustrations of the dubious claims to power of the local or foreign ringleaders who threatened the existing political order through secretive operations. He explains the intention of giving lessons to his audience with his 'text-image'-sequences:

So that all those in power will take this as an example, so that they will not elevate themselves because of their honour, their wealth or power.

*Darby ein jeglicher gewaltiger ein exampel sol naemen, sich siner eren, sins gütz, noch gewaltes nit zü überheben.*²⁹

At the end of these 'text-image'-sequences the lawful order almost always wins. The images are never mere illustrations of the text, but narrate the story as successive events in a procedural performance of authority. Schilling shows the power of the written and spoken word.

The sequence of images of the so-called *Amstaldenhandel* in Luzern is a fine example of fifteenth-century political process.³⁰ In this episode, the exercise of Luzern's political power was once again tested by its surrounding dependent territories.

In several illustrations, Schilling outlines the course of action against the well-respected and influential Peter Amstalden from Schüpfheim in the Entlebuch, near Luzern. Amstalden had acquired a *bösen lümbd* (a bad reputation) because he allegedly plotted with equally minded people to sever Entlebuch from Luzern. The court proceedings of the Luzern authorities had to prove Amstalden's bad reputation. As a first step, the town chancellor recorded testimony under oath from witnesses from the territory concerned (fig. 3). Next, the council had the right to have Amstalden arrested in town (fig. 4). This was the preparation for the main hearing, which took place in prison. Schilling tells in the text describing this illustration, how mayor and authorities accused Amstalden by showing the written testimonies.

²⁹ Diebold Schilling, *Die Luzerner Chronik des Diebold Schilling 1513: Faksimile-Ausgabe der Handschrift S. 23 fol. in der Zentralbibliothek Luzern* (Luzern, 1981), ff. 144v and 147v.

³⁰ Also mentioned by PFAFF, "Staat und Gesellschaft", p. 105. D. SUTER-SCHMID, *Koller-, Mötteli- und Amstaldenhandel: Ein Beitrag zur Politik Unterwaldens in der 2. Hälfte des 15. Jahrhunderts* (Zürich, 1974). G. EGLOFF, "Amstaldenhandel", in: *Historisches Lexikon der Schweiz*, ed. M. JORIO, 1- (Basel, 2002-), 1, p. 314.

*how schultheissen und die gwaltigosten mit sampt irem schriber und aller in-
genommer kuntschafft zû im in turn ... fingend inn anzeclagen und mit im ze reden
und im die artickel fürzehalten*

Because the accused was already frightened enough by the hearing as such, torture was not necessary to find him guilty. Nevertheless

*erschrack [dieser] aber so übel, das er gantz nüt kond reden, wann er gesach dem
schriber das bûch in henden, darin aller handel und kuntschafft stünd.*

Amstalden was shocked after seeing the written evidence of his evil deeds and pleaded guilty without saying a single word in his own defense (fig. 5). His reaction proves the authority of the written word against his own, oral testimony. He trusted the written word of the prosecution over his own spoken word.

The case had not as yet come to a conclusion, however. The chronicle story winds up in text and image with the justified and public execution of the treacherous Amstalden. In the end he finds mercy with the authorities and receives the holy sacrament (fig. 6). Rather than being quartered he is given the milder punishment of beheading!

Conclusion

Trust in the written word as a base of legal power is a process of concluding social and political agreements between members of leading groups and citizens. This process is mainly shown as interaction. The different forms of trustworthy behaviour – e.g. the silent listening to a charter being read out in public – are depicted in chronicles like those of the Schillings. These illustrated interactions have to be regarded as normative depictions. In reality, making agreements was often not as peaceful a process as the chronicles suggest it ought to be. Nor was the written word always treated with the respect chancellors knew it deserved. The destruction and neglect of the written word, however, are also forms of trust in writing.

In rendering events in both images and texts, e.g. when the comeuppance of rebellious subjects was shown, the successful enactment and implementation of municipal authority in the surrounding territories could be exemplified. In the same way the efficient intertwining of the political and administrative processes was epitomized. In these processes, the participants relied on the author-

ity of written documents as administrative instruments. The chancellors and their assistants played an important role. They recited texts in public, such as charters, municipal law and important privileges which by themselves legitimated authority and power. They were also responsible for the formation of an image – both in the sense of a depiction and in that of an ideal. This is particularly clear in the illustrations of oath-taking in the Luzern Illustrated Chronicle.



Fig. 1 Illustration of the interior of the municipal centre of power (*Die Luzerner Chronik des Diebold Schilling 1513*, f. 2r).



Fig. 2 The oath: public manifestation of legal writings (*Die Luzerner Chronik des Diebold Schilling 1513*, f. 6v).



Fig. 3 Recording the oral testimony from witnesses (*Die Luzerner Chronik des Diebold Schilling 1513*, f. 127v).



Fig. 4 The arrest of the Amstalden in town (*Die Luzerner Chronik des Diebold Schilling* 1513, f. 128r).

Fig. 5 (facing page) The authority of the written word (*Die Luzerner Chronik des Diebold Schilling* 1513, f. 129v).





Fig. 6 Amstalden receives the milder punishment of beheading (*Die Luzerner Chronik des Diebold Schilling 1513*, f. 131v).

Part IV: Letters

Litterae, cartae, codices, petentes und notarii:
Aspekte der Vertrauenswürdigkeit von
Papsturkunden im Pontifikat Innozenz' III.
(1198-1216)

UTA KLEINE

Vertrauen und Urkunden – diese zwei Begriffe scheinen geradezu zusammenzugehören, gelten doch Glaubwürdigkeit und Bezeugungskraft als form- und gattungsimmanente Merkmale dieses Schriftguttyps. Als Synonym für diese spezifische Qualität der Urkunde verwendet die klassische Urkundenlehre seit Harry Bresslau in Anlehnung an einen mittelalterlichen Wortgebrauch den Begriff der *fides publica*. *Fides publica* (im Deutschen: "öffentlicher Glaube") bezeichnet eine den mittelalterlichen Urkunden gleichsam immanente Qualität, ihre Rechtskraft. Diese öffentlich-rechtliche Unanfechtbarkeit wurde im Mittelalter zunächst und vor allem den herrscherlichen Siegelurkunden, später dann auch die italienischen Notariatsinstrumenten zugesprochen.¹

Petra Schulte verdanken wir wichtige Erkenntnisse über das, was man im Mittelalter selbst im Zusammenhang mit Rechtsschriftgut unter *fides* verstand. Vertrauen in Urkunden hatte einen formalen und einen sozialen Aspekt: Es gründete sich ebenso auf die äußeren Merkmale des Dokuments wie auf die

¹ H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien* (Leipzig, 1912), I, S. 655-660. A. VON BRANDT, *Werkzeug des Historikers. Eine Einführung in die Historischen Hilfswissenschaften* (Stuttgart, Berlin und Köln, 1996¹⁴), S. 86-87. Das Mittelalter selbst kennt diesen Terminus allerdings noch nicht; die Dokumente sprechen einfach von *fides* oder *fides plena*, vgl. hierzu den Beitrag von Petra Schulte in diesem Band.

Person seines Ausstellers, des Notars.² In diesem Sinne bezeichnet *fides* die Eigenschaft eines Objektes bzw. einer Person, seine/ihre Vertrauenswürdigkeit (*is cui confidi potest*). Neu an Schultes Ergebnissen ist, dass sie das diplomatische Fachwort historisch ernst nimmt, es nicht als gesetzte, sondern als eine gewordene Qualität versteht und es so hinterfragbar macht.

Neben einer Objekt- oder Personeneigenschaft bezeichnete *fides* aber auch eine menschliche Haltung, nämlich das Vertrauen in ein Ding oder eine Person (*actio sive facultas confidendi*). Vertrauen aber wurde im Mittelalter nicht vorrangig als Emotion, sondern als Institution verstanden, eine Institution, ohne die, so Jean Wirth, die menschlichen Sozial- und Herrschaftsverhältnisse nicht denkbar waren.³ Bereits Augustinus beschwor ihre gesellschaftliche Notwendigkeit mit dem mahnenden Ausruf: *Fide de rebus humanis sublata, quam horrenda confusio sequeretur*.⁴ Die *fides* bildete die Grundlage eines spezifisch christlichen Sozialmodells, in dem sakrale und profane Sphären eng miteinander verzahnt waren. Es unterschied sich vom römisch-antiken Institutionengefüge, dessen Fundament das Recht war. Diese Verschiebung ist auch an der Ausweitung des Bedeutungsfeldes von *fides* ablesbar: in der christlichen Gesellschaft des Mittelalters stand das Wort synonym für 'Vertrauen' und 'Glauben'. Die menschlichen Beziehungen waren in die christliche Glaubenstradition eingebunden und folgten demselben Prinzip. So konnte die Theologie des 12. Jahrhunderts definieren: *fides ... perceptio est veritatis rerum invisibilium ad salutem pertinentium*.⁵ Vertrauen war die (unsichtbare) Essenz sozialer Bindungen, sowohl der Bindungen zwischen Diesseits und Jenseits als auch der zwischenmenschlichen Beziehungen im Diesseits: ohne *fides* kein Heil, aber auch keine Verwandtschaft oder Freundschaft, keine Lehenstreue, keine Bündnisse und keine Verträge.

² P. SCHULTE, *Scripturae publicae creditur: Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003: *Bibliothek des Deutschen Historischen Instituts in Rom* 101), S. 4-12. Hinzugezogen wurden ferner die Artikel 'fides' im *Thesaurus linguae latinae* 1.1 (Leipzig, 1912-1926), cols. 661-691, und im *Oxford Latin Dictionary*, ed. P.G.W. GLARE (Oxford, 1982), S. 697-698.

³ Hier und im Folgenden berufe ich mich auf J. WIRTH, "La naissance du concept de croyance (XII^e-XVII^e siècles)", *Bibliothèque Humanisme et Renaissance* 45 (1983), S. 7-58, hier S. 13. Zum Vertrauen als 'sozialer Kategorie' und aus neuzeitlicher Perspektive vgl. U. FREVERT, "Vertrauen in historischer Perspektive", in: *Politisches Vertrauen: Soziale Grundlagen reflexiver Kooperation*, ed. R. SCHMALZ-BRUNS und R. ZINTL (Baden-Baden, 2002), S. 39-60 und *Vertrauen: Historische Annäherungen*, ed. U. FREVERT (Göttingen, 2003).

⁴ Augustinus, *De fide rerum quae non videntur*, ed. in: *PL* 40, cols. 173-174. Augustins Schrift blieb während des Mittelalters maßgeblich für die theologischen Reflexionen über *fides*.

⁵ Simon von Tournai (†1201), zit. bei WIRTH, "La naissance", S. 15.

Die folgenden Ausführungen beschäftigen sich vornehmlich mit dem ersten Bedeutungsaspekt: mit Vertrauen/*fides* als einer Eigenschaft von Dingen, nämlich von Schriftstücken. Hierbei sind die anderen *fides*-Aspekte selbstverständlich stets mitzubedenken; dies gilt besonders für die komplementären Fragen nach der Autorität des abwesenden Ausstellers, als dessen Repräsentant das Schriftstück angesehen wurde, und nach der Vertrauenswürdigkeit derjenigen Personen, die mit der Herstellung und dem Gebrauch von Schriftstücken befasst waren. Ich werde mein Thema an einem besonderen Typ von Schriftzeugnissen ausführen: an Papsturkunden, genauer: an einer neuen Form päpstlicher Schreiben, die im Wortgebrauch der römischen Kurie *litterae apostolicae* genannt wurden.

I.

Geht man allein von der Anzahl und der weiten Verbreitung des Überlieferten aus, genossen die Urkunden der Päpste seit dem 11. Jahrhundert besonderes Vertrauen. Dies galt auch noch, als mit dem allgemeinen Verschriftlichungsschub des 11. und 12. Jahrhunderts die Urkundenproduktion der großen fürstlichen Kanzleien Westeuropas sprunghaft zunahm: nach Ausweis des Erhaltenen übertraf das Urkundenvolumen der römischen Kurie dasjenige der englischen oder französischen Könige bei weitem. Die Zahlen verweisen sowohl auf eine erhöhte Nachfrage als auch auf bessere Konservierungschancen – beides ein Zeichen für die besondere Wertschätzung, die den päpstlichen Schreiben entgegengebracht wurde.⁶ Die meisten entstanden nicht *motu proprio*, auf Initiative der Päpste selbst, sondern wurde auf Anfrage Dritter hin hergestellt. Petenten aus der gesamten westlichen Christenheit, Kleriker wie Laien, wandten sich an den apostolischen Stuhl, um persönliche oder lokale Angelegenheiten vom Papst entscheiden und verbriefen zu lassen. Hierzu gehörten päpstliche Prärogativen wie Kanonisationen, Dispense, Absolutionen und Einweisungen in Pfründen ebenso wie Fälle, die eigentlich der lokalen kirchlichen Gerichtsbarkeit unterstanden: Privilegierung und Schutz von Klöstern und Stiften, Regelung von

⁶ R. HIESTAND, "Die Leistungsfähigkeit der päpstlichen Kanzlei im 12. Jahrhundert mit einem Blick auf den lateinischen Osten", in: *Papsturkunde und europäisches Urkundenwesen: Studien zu ihrer formalen und rechtlichen Kohärenz vom 11. bis 15. Jahrhundert*, ed. P. HERDE und H. JAKOBS (Köln, Weimar und Wien, 1999: *Archiv für Diplomatik: Beihefte* 7), S. 1-26, bes. S. 6-7. Eine vergleichende Übersicht bei M.T. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2. Auflage (Oxford, 1993), S. 60. Die byzantinischen Verhältnisse bleiben hier unberücksichtigt.

Streitfällen in Fragen des Besitzes, der Rechte oder der Disziplin, kontroverse Abts- oder Bischofswahlen, Ehesachen – um nur einiges zu nennen.⁷

Die Gründe für diese zunehmende Nachfrage liegen in der fundamentalen Neubestimmung des Verhältnisses von *regnum* und *sacerdotium* im 11. und 12. Jahrhundert: Das gestiegene Ansehen des Reformpapsttums, die bewusste Einmischung der Reispäpste in lokale Rechts- und Glaubensfragen, der von Gregor VII. im ‘*Dictatus Papae*’ formulierte Anspruch einer universalen päpstlichen Monarchie, die aus dem gratianischen Rechtscorpus abgeleitete Forderung nach dem Jurisdiktionsprimat des Papstes, schließlich das seit dem 12. Jahrhundert bestehende Recht der unbeschränkten Appellation an die römische Kurie ohne vorherige Anrufung eines niederen Gerichtes – all dies trug maßgeblich dazu bei, dass sich das durchschnittliche jährliche Urkundenvolumen zwischen den Pontifikaten Leos IX. und Innozenz’ III. versechsfachte.⁸

Dieser kontinuierliche Zuwachs ging einher mit einer Differenzierung der Urkundentypen. Seit etwa 1140, im Pontifikat Innozenz II., etablierten sich mit den so genannten *litterae apostolicae* relativ schlichte, kleinformatige Schriftstücke, deren Formular nach erheblichen Schwankungen um etwa 1200 feststand. In ihm verband sich die einfache, aus der römischen Privatepistola hervorgegangene und zunächst nur für administrative Anweisungen verwandte Briefform mit der aufwendigen Gestaltungsart des für Gnadenerweise reservierten Privilegs zu einem neuen und vielseitigen Urkundentyp, der um ca. 1200 das ältere, feierliche Privileg weitgehend verdrängt hatte.⁹

⁷ Hierzu und zum Folgenden: G. GIORDANENGO, “Appel au pape”, in: *Dictionnaire historique de la papauté*, ed. P. LEVILLAIN (Paris, 1994), S. 128-129; L. FALKENSTEIN, “Appellationen an den Papst und Delegationsgerichtsbarkeit am Beispiel Alexanders III. und Heinrichs von Frankreich”, *Zeitschrift für Kirchengeschichte* 97 (1986), S. 36-65; F.M. BISCHOFF, *Urkundenformate: Größe, Format und Proportionen von Papsturkunden in Zeiten expandierender Schriflichkeit (11.-13. Jahrhundert)* (Marburg, 1996; *Elementa diplomatica* 5), S. 22-23; G. BARRACLOUGH, *The Medieval Papacy* (London, 1968), S. 74-75; R. SCHIEFFER, “Papsttum und mittelalterliche Welt”, *Geschichte in Wissenschaft und Unterricht* 10 (1997), S. 580-589.

⁸ Von durchschnittlich 50 Stück pro Jahr um 1050 auf 300 Stück unter Innozenz III., vgl. BISCHOFF, *Urkundenformate*, S. 24-30; HIESTAND, “Die Leistungsfähigkeit”, S. 6-10. Zwischenzeitlich (um 1190) stieg die durchschnittliche Jahresproduktion gar auf bis zu 500 Stück. Der Pontifikat Innozenz’ III. stellt nach Bischoff also keineswegs einen vorläufigen Höhepunkt der Urkundenproduktion dar, umso mehr, wenn man bedenkt, dass sich mit ihm die Überlieferungslage dank der weitgehend erhaltenen Originalregister bedeutend verbessert. Eine sprunghafte Zunahme ist erst unter seinen Nachfolgern Honorius III. und Gregor IX. (ca. 600 Stück), und besonders dann unter Innozenz IV. (über 1000 Stück) zu verzeichnen. Diese Berechnungen gehen selbstverständlich allein vom Erhaltenen aus. Es ist kaum möglich, von hier aus auf das tatsächliche Gesamtvolumen zu schließen.

⁹ P. HERDE, *Beiträge zum päpstlichen Kanzlei- und Urkundenwesen im dreizehnten Jahr-*

Nach Rechtsinhalt und Form werden zwei Gruppen von *litterae* unterschieden: Gratialbriefe (*litterae de gratia*) zur Verleihung von Rechten und Gnadenerweisen (sie ersetzten weitgehend das feierliche Privileg) und Justizbriefe bzw. Mandate (*litterae de iustitia*) zur Regelung von rechtlichen Alltagsgeschäften. Das Aufkommen dieses neuen, rationellen Urkundentyps ist Ausdruck eines Wandels in der kurialen Schriftproduktion, der sich im 12. Jahrhundert anbahnte und um die folgende Jahrhundertwende, im Pontifikat Innozenz' III., dank überlieferter Originalregister, erster Kanzleiregeln und Formularbücher¹⁰ sehr plötzlich quellenmäßig greifbar wird. Dieser Wandel ist Teil einer in ganz Europa zu beobachtenden Expansion des schriftbezogenen Handelns, die mit einer Ökonomisierung von Schriftformen, -inhalten und -produktionsweisen einherging.¹¹

Die *litterae apostolicae* waren also das Vehikel, mittels dessen Petenten seit dem späten 12. Jahrhundert die ihnen vom Papst gewährten oder bestätigten Rechte in ihre Heimat trugen und die umgekehrt dem beanspruchten apostolischen Jurisdiktionsprimat in einer beispiellosen Summe von Fallrechtsentscheidungen in ganz Europa zum Durchbruch verhalfen.¹² Das Funktionieren

hundert (Kallmünz, 1967²: *Münchener Historische Studien*, Abt. Geschichtliche Hilfswissenschaften 1), S. 57; ID., *Audientia litterarum contradictarum: Untersuchungen über die päpstlichen Justizbriefe und die päpstliche Delegationsgerichtsbarkeit vom 13. bis zum Beginn des 16. Jahrhunderts*, 1, Kommentar (Tübingen, 1970: *Bibliothek des Deutschen Historischen Instituts in Rom* 31), S. 3-6; HIESTAND, "Die Leistungsfähigkeit", S. 9. Dennoch lebte die Form des feierlichen Privilegs bis zum Ende des Mittelalters fort.

¹⁰ Editionen: *Die Register Innozenz' III.*, ed. O. HAGENEDER et al., bisher erschienen 1-8 (Rom und Wien, 1968-2001: *Publikationen des österreichischen Kulturinstituts in Rom*, 2. Abt.: *Quellen*, 1. Reihe 1-8); *Die päpstlichen Kanzleiordnungen von 1200-1500*, ed. M. TANGL (Innsbruck, 1894; reprint Aalen, 1959); HERDE, *Audientia litterarum contradictarum*, 2 (Edition der Gestaltungsregeln aus dem 13. Jahrhundert).

¹¹ H. KELLER, "Vom 'heiligen Buch' zur Buchführung: Lebensfunktionen der Schrift im Mittelalter", *Frühmittelalterliche Studien* 26 (1992), S. 1-31, bes. S. 1-2; ID., "Vorschrift, Mitschrift, Nachschrift: Instrumente zu vernunftgemäßem Handeln und guter Regierung in den italienischen Kommunen des Duecento", in: *Schriftlichkeit und Lebenspraxis im Mittelalter: Erfassen, Bewahren, Verändern*, ed. H. KELLER, CH. MEIER, und T. SCHARFF (München, 1995: *Münstersche Mittelalter-Schriften* 76), S. 25-41, bes. S. 27-28. Andernorts, so im Schriftwesen der englischen Könige, haben sich mit dem *royal writ* noch weitaus schlichtere Formen durchgesetzt, vgl. CLANCHY, *From Memory to Written Record*, Tafel II-IV.

¹² SCHIEFFER, "Papsttum und mittelalterliche Welt", S. 587; O. HAGENEDER, "Papstregister und Dekretalenrecht", in: *Recht und Schrift im Mittelalter*, ed. P. CLASSEN (Sigmaringen, 1977: *Vorträge und Forschungen* 23), S. 319-348; P. JOHANEK, "Methodisches zur Verbreitung und Bekanntmachung von Gesetzen im Spätmittelalter", in: *Histoire comparée de l'administration (IV^e-XVII^e siècles): Actes du XIV^e colloque historique franco-allemand, Tours, 27 mars-1^{er} avril 1977*, ed. W. PARAVICINI und K.F. WERNER (Zürich und München, 1980: *Beihefte der Francia* 9), S. 88-101, bes. S. 93-98.

des päpstlichen Schriftwesens setzte ein prozedurales Grundvertrauen voraus: Der Petent verließ sich auf die Autorität und Rechtskraft des besiegelten Pergaments, der Papst auf die Richtigkeit der vorgebrachten Ansprüche (*veritas precum*)¹³ und den bestimmungsgemäßen Gebrauch des Schriftstückes durch den Petenten, der für die Bekanntmachung und Durchsetzung seiner verbrieften Rechte vor Ort selbst verantwortlich war – so er nicht päpstliche Legaten, delegierte Richter oder andere vom Papst bestimmte Exekutivbeauftragte in Dienst nehmen konnte.

Bislang hat man der Frage nach den Grundlagen (und den Grenzen) dieses Vertrauens wenig Aufmerksamkeit gewidmet. Zur Erklärung der Beliebtheit von päpstlichen Schreiben wurde meist allgemein auf dreierlei verwiesen: auf das Alter und Ansehen der römischen Mutterkirche, auf die Autorität des Papstes als des Erben der Apostelfürsten Petrus und Paulus und auf die große Tradition des früh verschrifteten kanonischen Rechts.¹⁴ Diese institutionell argumentierenden Begründungen sollen im Folgenden um einige schriftlichkeitsgeschichtliche Aspekte ergänzt werden. Im Kern geht es um die Frage, wie sich die Autorität des apostolischen Stuhles auf die von ihm ausgestellten Dokumente übertrug. Sollten diese „wirken“, musste ihre Vertrauenswürdigkeit an ihnen selbst ablesbar sein: an ihrer Form, ihrem Inhalt, am

¹³ Die *veritas precum* war eine Voraussetzung für die Rechtswirksamkeit der Urkunde, vgl. O. HAGENEDER, „Die Rechtskraft spätmittelalterlicher Papst- und Herrscherurkunden *ex certa scientia*, *non obstantibus* und *propter importunitatem petentium*“, in: *Papsturkunde und europäisches Urkundenwesen*, S. 401-429, bes. S. 303-304. Zur Absicherung gegen das Erschleichen von Urkunden mittels gefälschter Angaben, aber auch gegen die eigenen Fehlleistungen stellte die Kanzlei auch *litterae sub forma communi* aus, die nur eingeschränkte Rechtskraft besaßen und deren Bedingungen in speziellen Vorbehaltsformeln (*“si ita est“* oder *“nullis litteris obstantibus“*) zum Ausdruck gebracht wurden. Die Formel *“ex certa scientia“* hingegen besagte, dass der Aussteller die Urkunde auf ihren Inhalt hin geprüft hatte und sie die volle Rechtskraft besaß.

¹⁴ Sehr ausführlich hat sich in einem Orientierungsaufsatz Rudolf Schieffer mit dieser Frage beschäftigt: SCHIEFFER, „Papsttum und mittelalterliche Welt“, S. 586 ff. Schieffer hat auch die Bedeutung des symbolischen Bezugfeldes hervorgehoben: „Als Frucht einer Romreise einen Papyrus oder später ein Pergamentblatt mit der eigenhändigen Unterschrift des Papstes, gegebenenfalls auch denen seiner Kardinäle, mit seiner Bulle und geheimnisvollen graphischen Symbolen vorweisen zu können, bewies jenseits des konkret niedergelegten Rechtsinhalts die Beachtung, die Wertschätzung der eigenen Person und Institution an höchster Stelle und schuf eine sinnlich wahrnehmbare Verbindung zur Mutter aller Kirchen“ (p. 588). Allgemeine Hinweise bei C.R. CHENEY, *Pope Innocent III and England* (Stuttgart, 1976: *Päpste und Papsttum* 9), S. 97-99; BARRACLOUGH, *The Medieval Papacy*, S. 101-108; FALKENSTEIN, „Appellationen an den Papst“, S. 37; E. PITZ, „Die römische Kurie als Thema der vergleichenden Sozialgeschichte“, *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 58 (1978), S. 216-359, bes. S. 226.

Prozess ihrer Herstellung, an den Szenarien ihres Gebrauchs und den Arten ihrer Bewahrung.¹⁵

Für unsere Kenntnisse des päpstlichen Schriftwesens sind die Jahrzehnte vor und nach 1200 von großer Bedeutung, denn mit dem Pontifikat Innozenz' III. beginnt, wie gesehen, die weitgehend lückenlose Überlieferung der päpstlichen Originalregister und die Verschriftung des kurialen Geschäftsganges. Daher liegt es nahe, der Vertrauensfrage am Beispiel der Impulse und Neuerungen nachzugehen, die unter Innozenz' III. fassbar werden – auch wenn vieles hiervon schon auf seine Amtsvorgänger zurückgehen dürfte. Die folgenden Ausführungen umfassen zwei Teile. Der erste verfolgt eine ausstellerorientierte Perspektive. Hier geht es um die erwähnten Neuerungen in der äußeren Form und im Herstellungsprozess von päpstlichen Schreiben, die als ein Versuch gewertet werden, die Dokumente 'vertrauenswürdiger' zu machen. Dieses Bemühen, so der Kern meiner Argumentation, ist sowohl am Layout der *litterae* wie auch an der Organisation der Kanzlei und ihres Geschäftsablaufes ablesbar: Hier, auf der formalen Seite, nimmt die Autorität der Schriftzeichen zu, dort, auf der sozialen Seite, wächst die Bedeutung des Schrifthandelns als eines Mittels der Kontrolle von Kanzleipersonal, Petenten und Überbringern.

Im zweiten Teil geht es wieder um die Entstehung der päpstlichen *litterae*, diesmal allerdings aus der Perspektive der Empfänger. Hier liegt der Fokus auf den Motiven der Petenten, ihren Möglichkeiten des Einwirkens auf den kurialen Rechtsentscheid und der Art und Weise, wie sie das Schriftstück vor Ort benutzten und bewahrten. Dieser Teil der Darstellung führt zugleich vor Augen, dass Rechtsfindung, -verbriefung und -exekution schwierige und langwierige Prozesse sein konnten, denn in *causae maiores* verließ sich der Papst bei der Ermittlung der *veritas precum* und der Ausführung der von ihm getroffenen Verfügungen keinesfalls auf die Petenten allein. Eine zunehmende Gewähr für die Einbindung der päpstlichen Justiz in das örtliche Rechtsleben bot die seit dem 12. Jahrhundert praktizierte Delegationsgerichtsbarkeit. An der Kurie verhandelte Rechtsfälle wurden vom Papst an eigene Richter, Angehörige des örtlichen Klerus, zurücküberwiesen. Diese hatten die Sachlage im Namen der apostolischen Autorität zu prüfen und den Fall gegebenenfalls auch zu entscheiden.¹⁶ Auch hierzu ist die Überlieferung für den Pontifikat Innozenz' III. gün-

¹⁵ Zu den schriftpraxeologischen Untersuchungsfeldern des 'making', 'using' and 'keeping', s. CLANCHY, *From Memory to Written Record*, S. 2-3.

¹⁶ Ein neuerer Überblick: D. LOHRMANN, "Juges délégués", in: *Dictionnaire historique de la papauté*, S. 978-979; außerdem H. MÜLLER, *Päpstliche Delegationsgerichtsbarkeit in der Normandie (12. und frühes 13. Jahrhundert)*, 2 Bde. (Bonn, 1997: *Studien und Dokumente zur Gallia Pontificia* 4.1-2); J. SAYERS, *Papal Juges Delegate in the Province of Canterbury, 1198-*

stig: So liegen allein aus England zwei ausführliche Berichte über an der Kurie geführte Prozesse vor. Einen verfasste der Historiker und Geograph Giraldus Cambrensis (Gerald von Wales), den anderen der Mönch Thomas von Evesham.¹⁷ Der Bericht aus Evesham über den in den Jahren 1204-1206 geführten Exemtionsstreit zwischen dem Kloster und dem Bischof von Worcester soll, ebenso wie der hierüber ausgestellte Gratialbrief, als Fallbeispiel dienen, anhand dessen die Entstehung und besonders die situative Einbettung der päpstlichen *litterae* am Ort ihres Wirkens untersucht werden. In diesem Teil geht es vornehmlich um solche Details, die der kurialen Kanzleiüberlieferung und den Urkunden selbst nicht zu entnehmen sind, nämlich die vorbereitenden, begleitenden und vollziehenden Handlungen im Umfeld der Entstehung von Urkunden und die Umstände ihrer Bekanntmachung, Aufbewahrung und Weitertradition vor Ort.

II.

Zum ersten Punkt, den formalen Veränderungen und der gewachsenen Autorität der Schriftzeichen, verweise ich beispielhaft auf das Layout eines päpstlichen Gratialbriefes um 1200 (s. Abb. 1). Hier fällt, neben den insgesamt reduzierten Ausmaßen (30x25 cm), vor allem die Schlichtheit des Layouts ins Auge: Der gesamte Text vom Papstnamen bis zum Datum ist in einem Schriftblock geschrieben. Damit verbunden ist ein weitgehender Verzicht auf Gestaltungselemente in Protokoll und Eschatokoll. Im Protokoll fehlen früher gelegentlich verwendete graphische Zeichen wie Kreuz oder Chrismon als symbolische Formen der Invokation – eine verbale Invokation kannten auch schon die älteren Papsturkunden nicht. Schmuckelemente enthält nur die Intitulatio, wo der Papstname durch elongierte Schrift und florale Initiale hervorgehoben ist.¹⁸ Das Eschatokoll besteht nur aus der in den Textblock

1254: A Study in Ecclesiastical Jurisdiction and Administration (Oxford, 1970). Die Entscheide in *causae maiores* behielt sich der Papst in der Regel selbst vor.

¹⁷ Eine ausführliche Darstellung von M. SPAETHEN, "Giraldus Cambrensis und Thomas von Evesham über die von ihnen an der Kurie geführten Prozesse", *Neues Archiv* 31 (1906), S. 597-649.

¹⁸ Zur formalen Gestalt verweise ich hier auf die neueste Darstellung von T. FRENZ, *Papsturkunden des Mittelalters und der Neuzeit*, 2. Ausgabe (Stuttgart 2000: *Historische Grundwissenschaften in Einzeldarstellungen* 2), S. 23-27 (hier ist auch die ältere Literatur nachgewiesen) und auf M. KORDES, *Der Einfluß der Buchseite auf die Gestaltung der hochmittelalterlichen Papsturkunde: Studien zur graphischen Konzeption hoheitlicher Schriftträger im Mittelalter* (Hambrug, 1993: *Studien zur Geschichtsforschung des Mittelalters* 52).

integrierten Datumszeile mit der sogenannten ‚kleinen Datierung‘ (Ort, Tag, Pontifikatsjahr) und enthält keine Unterschriften. Alle eigenhändigen und auch graphisch hervorgehobenen Beglaubigungszeichen, die noch für das ältere Privileg typisch waren, sind hier fortgefallen: die Kardinalsunterschriften mit Kreuz und Subscripti-Schlaufen sowie die Papstsignatur mit ihren aufwendigen Symbolen, der Rota und dem monogrammatischen Benevalete (Abb. 2).¹⁹ Fortgefallen ist ferner die *per-manum*-Formel des Kanzlers in der dem Privileg eigenen ‚großen Datierung‘, die der Unterzeichnende durch eigenhändige Setzung seiner Initiale vollendete.²⁰

Noch schlichter waren die einfachen Justizbriefe gestaltet: Hier wurde auf sämtliche graphische Schmuckelemente wie die Zierinitiale und die Auszeichnungsschrift zu Beginn der Intitulatio verzichtet, ebenso auf die geschwärzten Initialen und die breit auseinandergezogenen Ligaturen im Schriftblock des Kontextes. Als wichtigstes Roborationszeichen blieb, einem gesamteuropäischen Trend entsprechend, einzig das an Seiden- oder Hanffäden päpstliche Bleisiegel mit den Köpfen der Apostelfürsten und dem Papstnamen übrig.²¹

Diese Entwicklung zeigt dreierlei.

1. Die ursprünglich performativen Akte des Vollzugs (schreiben, signieren, besiegeln) werden durch textuelle und symbolische Autoritätsbezeugungen ersetzt. Statt in seiner eigenhändigen Signatur ist der Papst nur mehr in der graphisch hervorgehobenen Intitulatio (*INNOCENTIUS episcopus servus servorum Dei*) und in seinem Namenszug auf dem Siegel präsent. Authentizität und Wiedererkennbarkeit werden hier nicht, wie beim Notariatsinstrument, durch das Prinzip der Eigenhändigkeit, die Wirkung von individuellen Gestaltungsmerkmalen (Schreiberhand und *signum*) er-

¹⁹ Zu den graphischen Symbolen vgl. den Band *Graphische Symbole in mittelalterlichen Urkunden: Beiträge zur diplomatischen Semiotik*, ed. P. RÜCK (Sigmaringen, 1996: *Historische Hilfswissenschaften* 3), mit den Beiträgen von P. RÜCK, „Beiträge zur diplomatischen Semiotik“, S. 13-48; T. FRENZ, „Graphische Symbole in päpstlichen Urkunden (mit Ausnahme der Rota)“, S. 400-406; J. DAHLHAUS, „Aufkommen und Bedeutung der Rota in Papsturkunden“, S. 407-423.

²⁰ FRENZ, *Papsturkunden*, S. 23. Die große Datierung enthält außerdem die Indiktion und das Inkarnationsjahr. Eine Scriptumszeile kennen die Papsturkunden gar nicht. Seit ca. 1200 kommt allerdings die Schreibersigle auf der Plica auf, vgl. BISCHOFF, *Urkundenformate*, S. 42.

²¹ Im Allgemeinen gelten die Päpste selbst als Vollender dieser Entwicklung: Alexander III. legte mit den Bestimmungen der Dekretale *Scripta vero authentica*, die das Siegel als Beglaubigungsinstrument vorschrieb, Kriterien für die verbindliche Urkundenaufzeichnung fest, vgl. BRESSLAU, *Handbuch der Urkundenlehre*, 1, S. 657; P. JOHANEK, „Zur rechtlichen Funktion von Traditionsnotiz, Traditionsbuch und früher Siegelurkunde“, in: *Recht und Schrift im Mittelalter*, ed. P. CLASSEN (Sigmaringen, 1977: *Vorträge und Forschungen* 23), S. 131-162.

zielt, sondern durch eine größtmögliche Standardisierung von Schriftbild und Layout.

2. Die Vielfalt der personalen Autoritäten als Garanten der Gültigkeit des Schriftstücks wird reduziert: Als Urheber ist einzig der Papst genannt. Ihm sind als lokale und institutionelle Patrone lediglich die Apostelfürsten im Siegel beigeordnet, wohingegen ein verbaler oder symbolischer Verweis auf Christus als göttliche *causa prima* allen Tuns fehlt. Auch alle übrigen am Beurkundungsgeschäft Beteiligten, die Kardinäle als Berater und Zeugen, der Kanzler und die Notare als ausführende Personen, sind aus dem Urkundenformular verschwunden. Dies ist insofern eine paradoxe Situation, als der Papst an die *litterae* gar nicht mehr selbst Hand anzulegen pflegte. Auch auf ihren Wortlaut und Inhalt nahm er zunehmend weniger Einfluss, denn nicht nur die Ausführung der Urkunden, sondern auch die Entscheidungen in einfachen Justizsachen wurden immer häufiger an Kanzlei-beamte delegiert und durch Formelbücher sowie eine interne Rechts- und Geschäftsordnung geregelt, wie noch zu zeigen sein wird.
3. Die Fülle der graphischen Zeichen, die das ältere Privileg auszeichneten, wird ebenfalls reduziert.²² Dies hat seinen pragmatischen Grund zunächst in der vereinfachten Herstellung, bedeutet darüber hinaus aber auch einen Verzicht auf Zeichenhaftigkeit und Visualität.²³ Dies ist deshalb umso bedeutsamer, als dieses Zeicheninventar ja ursprünglich ganz unmittelbar auf die physische Präsenz des Urhebers bzw. auf bestimmte, mit der Beurkundung verbundene Handlungen (Signatur, Kreuzzeichen oder Zeugeneid) verwiesen hatte. Die Authentizität des neuen Urkundentyps wird folglich nicht länger durch diese Spuren direkter personaler Präsenz gewährleistet, sondern beruht auf einem neuen Prinzip, dem der standardisierten Serie. Dieser Wandel der Form, der sich im 12. Jahrhundert in weiten Teilen

²² Über ihre symbolische Funktion haben Peter Rück und andere in ihrem Versuch einer diplomatischen Semiotik ausführlich gehandelt, vgl. den bereits genannten Band *Graphische Symbole in mittelalterlichen Urkunden*. DAHLHAUS, "Aufkommen und Bedeutung der Rota", S. 412, interpretiert den mit dem Kreuz gefüllten Doppelkreis der Rota als religiöses Symbol, nämlich als Bild der vom Ozean umgebenen Erdscheibe, die durchdrungen ist von der im Kreuz symbolisierten, göttlichen Barmherzigkeit.

²³ P. RÜCK, "Die Urkunde als Kunstwerk", in: *Kaiserin Theophanu: Begegnung des Ostens und Westens um die Wende des ersten Jahrtausends: Gedenkschrift des Kölner Schnütgen-Museums zum 1000. Todesjahr der Kaiserin*, ed. A. VON EUW und P. SCHREINER, 2 Bde. (Köln, 1991), 2, S. 311-333. Rück weist den graphischen Zeichen eine ostentative, invokatorische, korroborative und apotropäische Funktion zu, vgl. S. 327-328. Vgl. auch SCHMIDT-WIEGAND, "Die rechtshistorische Funktion graphischer Zeichen und Symbole in Urkunden", in: *Graphische Symbole*, S. 67-79.

Westeuropas anbahnte, verweist, wie Brigitte Bedos-Rezak überzeugend dargelegt hat, auf einen grundsätzlichen Wandel im Verständnis von personaler Identität und Repräsentation: Die ontologische Beziehung zwischen dem zeichenhaften Objekt (hier: dem Schriftstück) und der Person (dem Aussteller), die darauf beruhte, dass im Objekt das Subjekt wesenshaft verkörpert war, löste sich auf. Echtheit und Glaubwürdigkeit eines beglaubigten Schriftstücks waren nicht länger eine Frage der 'Identität' zwischen dem Aussteller-Subjekt und dem Schrift-Objekt, sondern wurden sondern durch den Vergleich mit gleich-artigen und gleich-förmigen Stücken gemessen.²⁴

Mit dem Wegfall früherer Beglaubigungsakte und -zeichen wuchs die Bedeutung der Buchstaben als Garanten für Echtheit und Rechtswirksamkeit der apostolischen Briefe. Seit 1125 wurde anstelle der römischen Kursive ausschließlich die in ganz Europa lesbare, kuriale Minuskel verwendet. Die typische Buchstabenform und die kanzleimäßige *forma scribendi* wurden zum wichtigen Erkennungsmerkmal päpstlicher Schreiben; gleiches gilt auch für den Wortlaut (*tenor*), der durch das Formelgut und den reglementierten Satzrhythmus des hochformalisierten *stilus curie* geprägt war.²⁵ Nicht mehr Schaustück wollten die päpstlichen Schreiben sein, sondern Lesestück.

Das kuriale Bemühen um Standardisierung und Unverwechselbarkeit verweist aber auch auf die Grenzen der Vertrauenswürdigkeit im päpstlichen Schriftwesen: Mit dem wachsenden Begehren nach apostolischen Briefen und mit der zunehmenden Selbstreferentialität der Dokumente nahm auch das Fälschungsproblem zu.²⁶ Hinzu kam, daß seit etwa 1050 das langlebige Perga-

²⁴ B. Bedos-Rezak hat diese Gedanken, die hier nur sehr vereinfacht wiedergegeben werden können, anhand von nordfranzösischen Siegeln des 11. und 12. Jahrhunderts entwickelt: B.M. BEDOS-REZAK, "Medieval identity: A sign and a concept", *American Historical Review* 105 (2000), S. 1489-1533; EAD., "Du sujet à l'objet: La formulation identitaire et ses enjeux culturels", in: *Unverwechselbarkeit: Persönliche Identität und Identifikation in der vormodernen Gesellschaft*, ed. P. VON MOOS (Köln, Weimar und Wien, 2004), S. 63-83; EAD., "Signes d'identité et principes d'altérité au XII^e siècle: L'individu, c'est l'autre", in: *L'individu au Moyen Age: Individuation et individualisation avant la modernité*, ed. B.M. BEDOS-REZAK und D. IOGNA-PRAT (Paris, 2005), S. 43-57.

²⁵ Zu den Form- und Gestaltungsregeln des frühen 13. Jahrhunderts vgl. HERDE, *Audientia litterarum contradictarum* 1, S. 185-190 (Kommentar), 2, S. 5-15 (Edition); ID., *Beiträge zum päpstlichen Kanzlei- und Urkundenwesen im dreizehnten Jahrhundert*, S. 72 ff.; *Kanzleiordnungen*, ed. TANGEL, S. 303-304, No. 102.

²⁶ Wegen seines gut bezeugten Vorgehens gegen Fälscher von Papsturkunden wird die so genannte Kanzleireform daher mit guten Gründen Innozenz III. zugeschrieben, vgl. T. FRENZ, "Innozenz III. als Kriminalist – Urkundenfälschung und Kanzleireform um 1200", in: *Papst*

ment endgültig den Papyrus ablöste. Das Original überdauerte den Lauf der Zeiten, musste zu seinem Erhalt von den Empfängern folglich nicht mehr kopiert werden, konnte aber bei dieser Gelegenheit auch nicht mehr stillschweigend umgeschrieben und damit den aktuellen Bedürfnissen angepasst werden. Viele unerhörte Petenten versuchten, wie Innozenz selbst zugab, sich durch gefälschte Urkunden das ihnen verweigerte Recht dennoch zu verschaffen und schädigten damit die Autorität des apostolischen Stuhles²⁷ – dies umso mehr, als spätestens seit Alexander III. Ein beträchtlicher Teil der apostolischen Schreiben als Dekretalen in die kanonischen Rechtssammlungen eingingen, gefälschte *opuscula* also überlokale Verbreitung und universale Rechtskraft erlangen konnten.²⁸ Innozenz III. war es denn auch, der erste systematische Kriterien der Urkundenkritik entwickelte und sich um ihre Bekanntmachung und Beachtung bemühte. Als wichtigstes Echtheitsmerkmal nannte er in einem Brief aus dem Jahre 1198 die Siegelbefestigung, denn die häufigste Art der Fälschung bestand darin, ein echtes Siegel an ein falsches Pergament anzuhängen.²⁹ Daneben fordert Innozenz, auch auf Rasuren und Pergamentqualität zu achten und empfiehlt Kundigen zudem einen Stil- und Schriftvergleich. Letzteres kann erforderlich sein, da auch innerhalb der Kanzlei Manipulationen möglich sind: so kann ein falsches Pergament als Einschub den leseunkundigen Bullatoren zur Besiegelung vorgelegt werden:

Innozenz III. Weichensteller der Geschichte Europas: Interdisziplinäre Ringvorlesung an der Universität Passau, 5.11.1997-26.5.1998, ed. T. FRENZ (Stuttgart, 2000), S. 131-140. Vgl. auch HERDE, *Beiträge*, S. 79-124.

²⁷ Brief an den Erzbischof von Reims (1198 Mai 19), ed. *Register Innozenz' III.*, 1, No. 235: "*Nos etenim circa maiora negotia frequentius occupati ..., cum omnibus apud nos instantibus in continenti satisfacere non possimus, quidam – eo quod a semita iustitie aberrantes ... exaudiri non possunt – in motum proprie voluntatis irrumpunt et ... per false astutiam speciei candorem puritatis apostolice denigrare ac depravare nituntur. Ex cuius falsitatis ingenio quot et quanta mala proveniant, cum per eam ... et apostolice sedis ledatur auctoritas ...*". Hierzu auch E. PITZ, "Erschleichung und Anfechtung von Herrscher- und Papsturkunden vom 4.-10. Jahrhundert", in: *Fälschungen im Mittelalter. Internationaler Kongreß der Monumenta Germaniae Historica, München, 16.-19. September 1986*, 4 vols. (Hannover, 1988: *Monumenta Germaniae Historica: Schriften* 33.1-4), 3, S. 71, 75, 95.

²⁸ O. HAGENEDER, "Papstregister und Dekretalenrecht", S. 319-148, hier S. 329. Innozenz III. bemühte sich daher, die päpstlichen Register zur alleinigen Grundlage der kanonischen Sammlungen zu machen.

²⁹ "... *ut filum de vera bulla extrahatur ex toto et per aliud filum immisum falsis litteris inseratur*", Brief an das Domkapitel von Mailand, *Register Innozenz' III.*, 1, No. 349, hier auch das folgende Zitat. Der Brief findet sich auch in der *Compilatio III.* 5, 11, 2 und – unter dem Titel: *de crimine falsi* – im *Liber extra* v, 20, 5.

Eos etiam a criminis falsitatis non reputamus immunes, ... qui accedentes ad bullam falsas litteras caute proicunt, ut de vera bulla cum aliis sigillantur. Sed hee due species falsitatis non possunt facile deprehendi, nisi vel in modo dictaminis vel in forma scripture vel qualitate carte falsitas cognoscatur.

Eine weitere Möglichkeit, nämlich die Konsultation des päpstlichen Registers, erwähnt er an dieser Stelle nicht, obwohl er sie andernorts zur Echtheitskontrolle empfiehlt: *ad regestum de consuetudine recurratur*.³⁰

Steigende Nachfrage und Betrugs- und Fälschungsmöglichkeiten im eigenen Hause führten dazu, dass auch der Geschäftsgang der Kanzlei neu geordnet wurde. Über ihre interne Ordnung sind wir seit dem Pontifikat Innozenz' III. dank der überlieferten Kanzleiordnungen, Formularbücher und Eide recht gut unterrichtet.³¹ Besonders Peter Herde hat dieses Gebiet ausführlich untersucht. Seine und andere Arbeiten haben deutlich gemacht, dass die Teilakte des Herstellungsprozesses bei der einfachen *per cancellariam*-Expedition eines Schreibens bereits weitgehend verschriftlicht waren.³² Der idealtypische Verlauf des Vorganges sei hier kurz resümiert.

Der Petent hatte seine Bitte in schriftlicher Form in der *data communis*, der öffentlichen Eingabestelle der Kanzlei, beim diensthabenden der sieben Notare einzureichen. Zur Zeit Innozenz' III. war es bereits vorgeschrieben, die Supplik im kurialen Stil abzufassen,³³ so dass ihre wesentlichen Teile wörtlich in die Vorurkunde aufgenommen werden konnten. In einfachen Justizsachen, d. h. bei eindeutiger Rechtslage, entschieden der Kanzler oder der zuständige Notar über die Gewährung der Bitte nach Maßgabe des kanonischen Rechts allein (*litterae*

³⁰ *Register Innozenz' III.*, 1, No. 537 (540). Dass gelegentlich auch Petenten die Register konsultierten, zeigt das Beispiel des Gerald von Wales: da ihm über den von ihm vorgetragenen Rechtsanspruch keine Privilegien vorlagen, "*supplicavit, quatinus registri Eugenii papae ... copiam sibi parumper indulgeret. Quo impetrato, vertens ad gesta Eugenii in Francia, coram clerico camerarii consedente et totum observante, confestim invenit ... literas istas Eas enim archidiaconus a camerario licentia data statim transcriberet*" (vgl. SPAETHEN, "Giraldus Cambrensis", S. 612, Anm. 1).

³¹ S. Anm. 10.

³² Das Folgende nach HERDE, *Beiträge zum päpstlichen Kanzlei- und Urkundenwesen*, S. 149-242. Neuere Überblicke mit umfassenden Literaturnachweisen bei FRENZ, *Papsturkunden*, S. 86-109; P. RABIKASKAS, "Chancellerie pontificale", in: *Dictionnaire historique de la papauté*, S. 331-336.

³³ Hierfür standen im 13. Jh. eigene Handbücher zur Verfügung, u.a. die Formelsammlungen des Guala Bichieri und des Thomas von Capua. Daneben halfen frei arbeitende *petitionarii* oder von der Kurie anerkannte Prokuratoren bei der Formulierung und der Beförderung der Petition.

dandae). Petitionen in wichtigen Angelegenheiten wurden dem Papst vom Notar mündlich vorgetragen (*litterae legendae*).³⁴

Nach ergangenem Beurkundungsbefehl³⁵ wurde anhand der zugrundeliegenden Supplik von einem Notar oder einem seiner Gehilfen, den Abbreviatoren, das Konzept hergestellt, das in einem nächsten Schritt der Distributor einem der ca. 100 auswärtigen, selbständig arbeitenden und korporativ organisierten Schreiber zuteilte.³⁶ Der Schreiber besorgte die Reinschrift. Zurück in der Kanzlei, wurden Konzept und Reinschrift kollationiert und von einem Korrektor inhaltlich überprüft. Ein Großteil der fertigen Schriftstücke wurde noch einmal verlesen: entweder vor dem Papst und/oder der *audientia publica*, einer öffentlichen Zusammenkunft von Kanzleipersonal und Publikum, wo päpstliche Verfügungen und Urteile (vor allem solche in einfachen, *per cancellariam* entschiedenen Justizsachen) bekanntgemacht wurden. Erfolgte dort kein Widerspruch (*contradictio*), war das Schreiben zur Besiegelung freigegeben. Andernfalls wurde das von der Gegenpartei angefochtene Dokument in der *audientia litterarum contradictarum* kassiert oder modifiziert. Zum Schutz vor letzten Manipulationen überließ man die Bullierung zwei Analphabeten. In der Bullarie wurden auch die angefallenen Taxen erhoben. Unter Umständen, wenn Aussteller oder Petent dies wünschten, erfolgte abschließend noch der – gebührenpflichtige – Eintrag ins päpstliche Register.

Deutlich läßt diese interne Ordnung das hohe Maß von Verschriftlichung und Arbeitsteiligkeit erkennen, das der Herstellungsökonomie ebenso dienen sollte wie der Sicherheit der Dokumente: Der Produktionsprozess wurde entpersönlicht und durch Vervielfältigung der Kontroll- und Einspruchsmöglichkeiten – zumindest theoretisch – vor Manipulationen geschützt. Die Möglichkeiten, aber auch die Grenzen dieses Verfahrens seien beispielhaft an zwei Verfah-

³⁴ Die Kanzleiordnungen bestimmen, dass ein Notar sämtliche Petitionen entweder auf einem Pergament zu notieren oder sie aneinander zu nähen habe: "*Omnes tamen petitiones, quas promovendas suscepit, simul et semel exhibeat scriptas in una carta vel etiam in diversis consutis, ut unus notarius semper habeat omnes petitiones eiusdem*" (Kanzleiordnungen, ed. TANGEL, S. 54-55).

³⁵ Erst im 14. Jahrhundert war es üblich, den Beurkundungsbefehl auf der Supplik zu vermerken: Die Notare zeichneten mit *concessum*, der Papst mit *fiat*, vgl. FRENZ, *Papsturkunden*, S. 89-90.

³⁶ Im 12. Jahrhundert hatte sich das Amt der Schreiber vom Notaramt abgespalten. Die Schreiber waren keine Kanzleibeamten, standen aber in einem eidlichen Dienstverhältnis zum Papst und bildeten ein eigenes, zunftmäßig organisiertes Kolleg. Sie arbeiteten selbständig in eigenen Räumlichkeiten und besaßen ein Monopol auf die Mundierung päpstlicher Briefe. Zum Schreiberkolleg vgl. B. SCHWARZ, *Die Organisation kurialer Schreiberkollegien von ihrer Entstehung bis zur Mitte des 15. Jahrhunderts* (Tübingen, 1972: *Bibliothek des Deutschen Historischen Instituts in Rom* 37), eine Zusammenfassung S. 209-217.

ren aufgezeigt: der Registerführung und der Veröffentlichung von Urkunden in der *audientia publica*.

Obwohl sich die Methoden der Registerführung und -benutzung spätestens unter Innozenz verbesserten (zumindest aber dank der nun durchgehend erhaltenen Originalregister besser fassbar werden), scheinen die Register nur in sehr eingeschränkter Weise zur Kontrolle des päpstlichen Schriftverkehrs eingesetzt worden zu sein. Wie Othmar Hageneder festgestellt hat, wurden sie von Innozenz in erster Linie als verbindliche Grundlage für spätere Rechtskodifikationen geschaffen. Als Hilfsmittel für die Alltagsarbeit der Kanzlei, insbesondere für eine systematische Kontrolle der Echtheit von Beweisurkunden, eigneten sie sich eben sowenig wie die Register seiner Vorgänger, über die wir allerdings sehr wenig wissen. Unvollständig geführt und inhaltlich bisweilen disparat, handelte es sich um keine Registraturen im modernen Sinn, sondern um “res gestae, das heißt Dokumentationen über die Tätigkeit des regierenden Papstes, deren Inhalt aus ganz verschiedenen Motiven ... zustande kam”.³⁷

Mit der *audientia publica* hingegen, die gemeinhin als eine Neuerung Innozenz’ III. gilt, war eine erfolgreichere Möglichkeit der Kontrolle von Rechtsdokumenten geschaffen worden: Die Möglichkeit zur Kontradiktion durch die Gegenpartei bzw. deren ständig in Rom anwesende Prokuratoren stellte ein weiteres Mittel dar, den Rechtsinhalt einer Urkunde zu prüfen – und zwar durch die möglichen Betroffenen. So machte ein gegnerischer Einspruch es von nun an möglich, falsche Angaben des Petenten oder eventuell vorhandene, konkurrierende bzw. entgegengesetzte Rechtsentscheidungen noch vor der Beglaubigung der Urkunde ans Licht zu bringen.³⁸

Folgendes kann bislang festgehalten werden: Im Prozess der Urkundenherstellung wurde nur wenig mündlich geregelt. Von begleitenden symbolischen Handlungen bei der Bittstellung, Beurkundung, Signatur, Publikation oder Urkundenübergabe wissen wir so gut wie gar nichts. Dieser hohe Verschriftlichungsgrad ist aber nicht einfach “fortschrittlich” im Sinne eines allmählichen Verzichts auf Solennitäten zugunsten von reinen Schriftakten,³⁹ sondern erklärt sich aus dem besonderen Charakter des päpstlichen Beurkundungsgeschäfts, dem ja in der Regel kein förmlicher Rechtsakt vorausging – daher kennen die päpstlichen Schreiben auch nur eine *datums*-, keine *actums*-Formel. Dieser hatte

³⁷ O. HAGENEDER, “Die Register Innozenz’ III.”, in: *Papst Innozenz III. Weichensteller der Geschichte Europas*, S. 91-102, hier S. 93. Seinen Schätzungen zufolge wurden bis ca. 1270 nur 18% der erhaltenen Originale registriert. Vgl. auch ID., “Papstregister und Dekretalenrecht”, S. 330-342. Zur Benutzung der Register als ‘Findbücher’ für fehlende Beweisurkunden s. Anm. 30.

³⁸ HERDE, *Beiträge*, S. 213-239; ID., *Audientia litterarum contradictarum*, S. 20-33.

³⁹ Hierzu KELLER, “Vorschrift, Mitschrift, Nachschrift”, S. 28.

vielmehr erst im Nachhinein und mit Berufung auf die päpstliche „Vor-Schrift“ zu erfolgen. Petenten erhielten daher zu ihrem Gratialbrief häufig ein begleitendes Exekutionsmandat, das örtliche Amtsträger benannte und sie beauftragte, das verbriefte Recht bekannt zu machen und für seine Beachtung zu sorgen.

Ganz maßgeblich hing das Vertrauen in das Dokument auch von der Vertrauenswürdigkeit der Hersteller und Bittsteller ab. Auch hier wurden unter Innozenz wichtige Bestimmungen eingeführt: Sämtliche Mitarbeiter der Kanzlei wurden durch Eide in ein geordnetes Dienst- und Treueverhältnis zum Papst bzw. zu ihren Vorgesetzten gebracht und zur korrekten Amtsführung verpflichtet. Die zentralen Formeln hierfür lauteten: *domino meo fidelis esse, servare iustitiam, pertinere ad mundiciam cancellariae, abstinere a muneribus, secreta secreta tenere*.⁴⁰ Dies war angesichts der komplexen Sozialstruktur der Kanzlei, deren Mitglieder untereinander in familiären (Notare und Abbreviatoren) oder korporativen Verhältnissen (Schreiber) standen, ein notwendiger Schritt. Durch diese eidliche Verpflichtung versuchte Innozenz, die vielfältigen internen Sozialbeziehungen zu ordnen, indem er die Loyalität des Personals auf den Papst als zentrale Autorität ausrichtete. Feste Taxen für die einzelnen Schritte der Herstellung sollten darüber hinaus die zahlreichen Möglichkeiten der individuellen Vorteilsnahme begrenzen – die überhand nehmende Bestechlichkeit des Kanzleipersonals war ein vielbeklagtes Übel.⁴¹

Auch die Zuverlässigkeit des Überbringers sollte gesichert werden: So durfte die Bitte nur vom Petenten persönlich oder von einem schriftlich bevollmächtigen, vertrauenswürdigen Boten eingereicht und das fertige Schreiben nur von ihm selbst entgegengenommen werden. Über die Herkunft der Petitionen war der Notar dem Papst gegenüber rechenschaftspflichtig.⁴² Diese Bestimmung wurde vom vierten Laterankonzil noch einmal grundsätzlich bekräftigt: Apostolische Briefe, die dubiose Petenten ohne Mandat erwirkten, um sie gegen Geld weiterzuverkaufen, wurden für ungültig, ihre Impetranten zu Fälschern erklärt.⁴³

⁴⁰ Solche und ähnliche Formulierungen in den überlieferten Eiden des Vizekanzlers und seiner Familiaren, der Notare, Korrektoren und Schreiber, vgl. *Kanzleiordnungen*, ed. TANGL, S. 33-36. Die Annahme von Ess- und Trinkbarem war allerdings gestattet (*“esculentis et poculentis non fraudulentis exceptis”*).

⁴¹ BARRACLOUGH, *Papacy*, S. 110.

⁴² *Kanzleiordnungen*, ed. TANGL, S. 54: *“Nullus omnino notarius petitiones recipiat, nisi que fuerint in communi data recepte vel quas dominus papa tradiderit aut aliquis cardinalium capellanus quoque vel camerarius, sed neuter sine mandato domini pape, ita ut, cum notarius legerit illas, dicat, quis eas sibi recipiendas mandavit”*.

⁴³ Lateran IV, constitutio 37: *“Sunt et alii, qui se ad novum genus mercimonii convertentes, ut vel sopitas possint suscitare querelas aut novas immittere quaestiones, fingunt causas, super quibus a sede apostolica literas impetrant absque dominorum mandato, quas vel reo ... aut*

Fälschungsproblematik und Kanzleireform lassen erkennen, wie leicht formale Echtheitskriterien durch menschliche Manipulationsversuche unterlaufen werden konnten. Die Vertrauenswürdigkeit von Schriftstücken war folglich ohne eine Kontrolle der am Beurkundungsvorgang beteiligten Personen nicht zu gewährleisten. Daher richteten sich die Kanzleireformen Innozenz' III. nicht allein auf formale Gestaltungs-, sondern auch auf soziale Verhaltensregeln.

III.

Ein Blick von außen, aus der Empfängerperspektive, soll abschließend zeigen, wie aufwendig der Prozess der Wahrheitsermittlung verlaufen konnte, wenn beanspruchtes Recht in einem Prozess vor der Kurie erst gefunden bzw. verteidigt werden musste. Hierzu sei nun der bereits genannte Bericht des Thomas von Evesham herangezogen, eines der frühesten und ausführlichsten Zeugnisse zum kurialen Prozesswesen.⁴⁴ Thomas, der Prokurator des Klosters Evesham, war ein Mönch neuen Typs: Obwohl von unbedeutender Herkunft, war er nicht nur in den traditionellen Triviumsdisziplinen geschult, sondern hatte auch eine moderne juristische Ausbildung genossen, die er nun ganz in den Dienst seines Klosters stellte.⁴⁵ Vorgeschichte und bisheriger Verlauf des Rechtsstreites seien hier kurz skizziert.⁴⁶ Die Mönche von Evesham hatten ihrem

actori ... venales exponunt. ... sancimus ut si quis super aliqua quaestione de caetero sine mandato speciali domini literas apostolicas impetrare praesumpserint, et literae illae non valeant et ipse tanquam falsarius puniatur ... (Dekrete der ökumenischen Konzilien 2: Konzilien des Mittelalters. Vom ersten Laterankonzil (1123) bis zum fünften Laterankonzil (1512-1517), ed. J. WOHLMUTH (Paderborn etc., 2000), S. 251).

⁴⁴ *Chronicon abbatiae de Evesham: ad annum 1418 [auctoribus Dominico priore Eveshamiae et Thoma de Marleberge abbate]*, ed. W.D. MACRAY (London, 1863: *Rerum Britannicarum medii aevi scriptores* 29). Ein noch früheres Zeugnis ist der Bericht des Abtes Hariulf von Oudenburg aus dem Jahre 1141 (E. MÜLLER, "Der Bericht des Abtes Hariulf von Oudenburg über seine Prozeßverhandlungen an der Römischen Kurie im Jahre 1141", *Neues Archiv* 48 (1930), S. 97-115).

⁴⁵ Zu Thomas' Herkunft, Ausbildung und Ambitionen vgl. jüngst A. BOUREAU, "How law came to the monks: Use of law in English society at the beginning of the thirteenth century", *Past and Present* 167 (2000), S. 29-74, bes. S. 66-69. Er hatte vermutlich bei Stephan Langton in Paris studiert, nahm als Vertreter seines Klosters dann am 4. Laterankonzil teil und wurde schließlich Abt von Evesham.

⁴⁶ Ausführliche Darstellungen bei BOUREAU, 'How law came to the monks'; D. KNOWLES, *The Monastic Order in England: A History of its Development from the Times of St. Dunstan to the Fourth Lateran Council 940-1216* (Cambridge, 1966²), S. 331-345, 605-606; CHENEY, *Innocent III and England*, S. 196-199.

Bischof Mauger von Worcester, der beabsichtigte, das Kloster zu visitieren, um der notorischen Missherrschaft des Abtes Roger Norreys ein Ende zu bereiten, mit der Berufung auf ihren exemten Status den Zutritt zum Kloster verwehrt. Der Bischof exkommunizierte den Konvent; und beinahe gleichzeitig appellierten beide Parteien nach Rom. Innozenz überwies den Fall zunächst an delegierte Richter in England zurück, die ein vorläufiges Urteil sprechen und durch Befragung von Zeugen die Rechtslage vor Ort ermitteln sollten. Als Tag des Prozessbeginns wurde der 18. November 1205 festgelegt; dann hatten die Prokuratoren beider Parteien mit Beweismitteln und Zeugenprotokollen (*cum instrumentis et attestationibus*) vor dem Papst zu erscheinen. Befragen wir zunächst die über diesen Fall ausgestellte Urkunde, einen Gratialbrief vom 18. Januar 1206.⁴⁷ Bereits die Arenga verweist mit ihrer Berufung auf die Vision vom apokalyptischen Richter und seinem zweischneidigen Schwert programmatisch auf die dem Papst verliehene, höchste Richtergewalt und die Universalität des kanonischen Rechts:

*Ex ore sedentis in throno procedit gladius bis acutus, quoniam ex ore Romani pontificis, qui presidet apostolice sedi, recitissima debet exire sententia, qui contra iuscitiam nulli parcat, sed reddat quod suum est unicuique.*⁴⁸

Fragt man, worauf der Papst seine *rectissima sententia* gründete und folgt man hierin zunächst der Eveshamer Urkunde, so waren die wichtigsten Beweismittel im Prozess Schriftstücke. In der Narratio sind sie einzeln aufgezählt. Es handelt sich um sechs Papsturkunden aus dem achten und 12. Jahrhundert: zwei Privilegien Constantins I. (ca. 700), jeweils ein Privileg Innozenz' II. und Alexanders III. und je einen Indulgenzbrief Clemens' III. und Coelestins III. Ihr Rechtsinhalt und seine juristische Auslegung werden ausführlich wiedergegeben. Alle Urkunden stammten aus dem Archiv von Evesham; der Bischof von Worcester verfügte über keine eigenen schriftlichen Rechtstitel. Die Urkunden stellten aber nicht die einzigen Beweismittel dar. Daneben lag die *relatio* der delegierten Richter mitsamt den protokollierten Zeugenaussagen vor; sie repräsentierten die mündliche Rechtstradition. In diesem Fall war es nicht nötig, die beiden Beweisarten gegeneinander zu gewichten. Die Zeugenaussagen stellten kein Gegenstück zum Urkundenbeweis dar, im Gegenteil: die *fama publica* bestätig-

⁴⁷ Ich zitiere nach dem im Register überlieferten Wortlaut: *Register Innozenz' III.*, VIII, No. 205. Ein ausführlicher Kommentar bei J. SAYERS, " 'Original', cartulary and chronicle: The case of the Abbey of Evesham", in: *Fälschungen im Mittelalter* 4, S. 371-395.

⁴⁸ *Register Innozenz' III.*, 8, No. 205, S. 351.

te, was auch die *scripturae authenticae* bezeugt hatten: sie wies die kontinuierliche Beachtung des behaupteten Rechts *a longis retro temporibus* nach.⁴⁹

Das neue Schriftstück beruft sich auf alte Schriftstücke – dies ist an und für sich noch kein außergewöhnlicher Urkundenbefund, bedenkt man die Bedeutung des Schriftbeweises im kanonischen Recht.⁵⁰ Über den tatsächlichen Verlauf eines solchen Schriftbeweises, d. h. über die situative Einbettung der genannten Schriftstücke im Moment der Verhandlung hingegen sagen die Urkunden in der Regel nichts oder nicht viel. Hierzu gibt erst der Bericht des Thomas von Evesham wichtige Einzelheiten.

Schauen wir zunächst auf den Ablauf der Verhandlungen: Sie fanden an fünf aufeinander folgenden Sitzungstagen des *consistorium publicum* statt, wo neben Papst und Kardinälen auch zahlreiche interessierte schrift- und rechtskundige Männer als Zuschauer anwesend waren.⁵¹ Am ersten Verhandlungstag wurden die Beweismittel – Urkunden und *relationes* – eingereicht. Auch wenn Thomas hierüber nichts berichtet, wissen wir doch aus dem beinahe gleichzeitigen Prozessbericht seines Landsmannes Gerald von Wales, dass sie üblicherweise laut verlesen wurden.⁵²

In der folgenden Sitzung legte Thomas den Rechtsinhalt der Privilegien in einer staunenswert kundigen und eleganten Rede (*allegatio*) überzeugend dar. In Ermangelung eigener Rechtstitel erklärten die Gegner die Urkunden für gefälscht: Konstantinische Privilegien seien in England unbekannt, und der Überbringer der jüngeren Indulgenzen sei keinesfalls ein vertrauenswürdiger

⁴⁹ Register Innozenz' III., 8, No. 205, S. 352.

⁵⁰ Die Beweiskraft der *scripturae authenticae* auch nach dem Tode der Zeugen war, wie gesehen, durch die Dekretale Alexanders III. festgeschrieben (s.o., Anm. 21). Ca. 50 Jahre früher ist eine gegenteilige Ansicht überliefert. 1124 entschied Calixt II. einen Rechtsstreit aufgrund der Zeugenaussagen: "*quia ... nos magis vivis testium vocibus quam scriptorum verbis fidem adhibemus*" (zit. bei G. MARCHAL, "Memoria, fama, mos maiorum: Vergangenheit in mündlicher Überlieferung im Mittelalter unter besonderer Berücksichtigung der Zeugenaussagen in Arezzo von 1170/80", in: *Vergangenheit in mündlicher Überlieferung*, ed. J. VON UNGERN-STERNBERG (Stuttgart, 1988: *Colloquium Rauricum* 1), S. 289-320, S. 301, Anm. 43).

⁵¹ *Gesta Innocentii papae III ab auctore anonymo*, in: PL 214, cols. 12-228, hier cols. 41-42: "*Ter in hebdomada solemne consistorium, quod in desuetudinem jam devenerat, publice celebrabat in quo, auditis querimoniis singulorum, minores causas examinabat per alios; majores autem ventilabat per se, tam subtiliter et prudenter, ut omnes super ipsius subtilitate ac prudentia mirarentur, multique litterarissimi viri et jurisperiti Romanam Ecclesiam frequentabant, ut ipsum duntaxat audirent, magisque discebant in ejus consistoriis, quam didicissent in scholis, praesertim cum promulgantem sententias audiebant ...*".

⁵² Vgl. SPAETHEN, "Giraldus Cambrensis", S. 605 (Verlesung von Beweisurkunden im Konsistorium), S. 614 (Vorlage und Verlesung weiterer Beweisurkunden im *consistorium publicum*), S. 615 (Verlesung der *allegationes* in der *audientia publica*); S. 619 (Verlesung der Zeugenprotokolle aus England im *consistorium publicum*).

Bote gewesen, sondern ein landesweit bekannter Fälscher.⁵³ Nun wurden die Pergamente von Innozenz persönlich auf ihre materiale und formale Qualität geprüft – eine Zeremonie, die dem Publikum die von ihm geforderten Techniken der Urkundenkritik eindrücklich demonstrierte:

*Et dominus papa propriis manibus tractavit ea, et traxit per bullam et cartam si forte posset bullam a filo amovere, et diligentissime intuens et tradidit cardinalibus intuenda, et quum per gyrum venissent iterum ad dominum papam, ostendens privilegium Constantini dixit, 'Huiusmodi privilegia quae vobis ignota sunt, nobis sunt notissima, nec possent falsari', et ostendens indulgentias dixit, 'istae verae sunt'*⁵⁴

Mindestens in einem Fall irrte der Papst. Der Umstand, dass die Urkunden seiner Vorgänger bis ins 11. Jahrhundert hinein auf Papyrus geschrieben wurden, war ihm offenbar unbekannt. Die moderne Urkundenkritik hat nachweisen können, dass es sich bei den vorgelegten Privilegien Constantins um formale und inhaltliche Fälschungen handelte, die im 12. Jahrhundert hergestellt wurden, als Evesham seinen Exemtionsanspruch zum ersten Male gerichtlich durchfocht und die alten Papyri bereits weitgehend zerfallen waren. Auch das Privileg Innozenz' II. von 1139 wird von Jane Sayers angezweifelt, die Indulgenzen Coelestins III. und Alexanders III. gelten hingegen als echt.⁵⁵ Tatsächlich konnte das Vorgehen Innozenz' auch an seinen eigenen Maßstäben gemessen kaum als wirkungsvolle Urkundenkritik gelten, was allerdings daran lag, dass ihm die für einen systematischen Stil- und Schriftvergleich notwendigen Kenntnisse über die Gewohnheiten seiner Vorgänger fehlten. Das Prüfungsverfahren bezog seine Überzeugungskraft für die Zeitgenossen denn auch nicht so sehr aus den zur Schau gestellten handwerklichen Kompetenzen des Papstes als vielmehr aus seinem zeremoniellen Habitus.

Der größte Teil der Verhandlungen bestand aus den frei gehaltenen Gerichtsreden (*allegaciones*) der Prokuratoren und ihrer rechtsgelehrten Prozeßhelfer (*advocati*). Während der Prokurator der Gegenpartei, Robert von Clipstone, wegen der Weitschweifigkeit seiner Ausführungen bei Papst und Kardinälen in

⁵³ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 160: "Nam carta et stylus, filum et bulla privilegiorum Constantini penitus in terra nostra ignota sunt. Portitor verum indulgentiarum ... fuit publicus falsarius, Nicholaus der Warewich, ed ideo eas falsas credimus".

⁵⁴ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 161.

⁵⁵ SAYERS, " 'Original', cartulary and chronicle", S. 373, 375-377. Eines der Privilegien ist als gefälschtes 'Original', das andere als Abschrift überliefert. Zum Privileg Innozenz' II. von 1139 vgl. S. 378-379; zu den Indulgenzen Coelestins III. und Alexanders III. vgl. S. 380-381.

Ungnade fiel, hielt sich Thomas an das geforderte *breviloquium* und sparte nicht mit Klagen und Tränen (*fletu et eiulatu*).⁵⁶ Auch am Tag der Urteilsverkündung setzte er auf demonstrative Demutsbekundungen: Schon in aller Morgenfrühe war er im Lateran zu finden, wo er sich jedem der eintretenden Kardinäle unter Tränen und inständigen Bitten zu Füßen warf,⁵⁷ was sogar bei seinen Gegnern Mitleid hervorrief.

Der kurze Einblick in den von Thomas beschriebenen Prozessablauf zeigt, dass im eigentlichen Verhandlungsgeschehen das schriftbezogene Handeln der Mündlichkeit nachgeordnet war. Ein bemerkenswertes Detail schildert nicht nur Thomas, sondern auch sein bereits erwähnter Landsmann Gerald von Wales: Gegen seine eigenen Vorschriften und gegen einen in Italien längst etablierten Rechtsbrauch ließ der Papst die Verhandlungen nicht von seinen Notaren protokollieren.⁵⁸ Nur die Schlussreden der Prokuratoren, in denen es noch einmal um die Auslegung der Beweismittel ging, lagen schriftlich vor: Thomas und sein Gegner hatten sie nach der Verhandlung selbst niederschreiben und einreichen müssen.⁵⁹ Die *allegationes* des Thomas wurden dann wörtlich in den Kontext des päpstlichen Gratialbriefes für Evesham aufgenommen.⁶⁰ Auch das Urteil wurde gewöhnlich vor seiner Niederschrift verkündet – nur in diesem Fall

⁵⁶ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 153: “*Tunc ego, iam pridem cognoscens quia curia breviloquio gaudebat, flens et eiulans dixi ...*”; ähnl. S. 160: “*Et haec cum magno fletu et eiulatu dixi*”. Ein andermal leitet er seine Rede mit den Worten ein: “*lingua prae timore balbutiente, sermone licet incomposito, ad ... res ... accedo*”.

⁵⁷ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 169: “*Sabbato vero, summo mane accessi ad curiam, et cuiuslibet cardinalis ingredientis pedes tenens magis lachrymis quam verbis motum animi mei indicavi, ut scilicet servorum suorum et ecclesiae suae misererentur. Supplicavi et tam miserabiliter quod non solum cardinales sed etiam adversarii mei et omnes qui me viderunt mei miserebantur*”.

⁵⁸ In der 38. Constitutio des IV. Laterankonzils forderte Innozenz wenig später die Verschriftung aller Rechtsvorgänge durch geeignete, möglichst öffentliche Notare: “*ne falsitas veritati praeiudicet, aut iniquitas praevaleat aequitati, statuimus ut tam in ordinario iudicio quam extraordinario, iudex semper adhibeat aut publicam, si potest habere, personam, aut duos viros idoneos qui fideliter universa iudicii acta conscribant, videlicet citationes, dilationes, recusationes et exceptiones, petitiones et responsiones, interrogationes, confessiones, appellationes, renunciationes, conclusiones et caetera quae occurrunt ...*” (*Conciliorum oecumenicorum decreta* – Dekrete der ökumenischen Konzilien 2, ed. WOHLMUTH, S. 251).

⁵⁹ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 168: “*Et dominus papa: ‘Discedite et scribite nobis summatim allegationes vestras, et detis nobis hac die, et confidite in Domino ...’ . Et recedentes uterque nostrorum seorsum suas scripsit allegationes, nos vero brevius quam hic sint scriptae, et subtilius et melius, et tradidimus eas domino papae in vespera*”. Ähnliches beichtet Gerald von Wales, vgl. SPAETHEN, “Giraldus Cambrensis”, S. 605–606, 609.

⁶⁰ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 226: “*Quum igitur allegationes meas ... et literas domini papae communes ex eisdem allegationibus formatas ante oculos meos revoco ...*”.

machte Innozenz eine Ausnahme: Wegen der bevorstehenden Weihnachtspause der Kanzlei ließ er das Konzept des Briefes vorher anfertigen und verlas die Sentenz *per scripturam*.⁶¹

Am 18. Januar 1206 erhielt Thomas die bullierte Reinschrift, nicht aber die gewünschte Zweitausfertigung. Daher ließ er den kompletten Wortlaut des Schreibens in das gleichzeitig ausgestellte Exekutionsmandat an die Äbte von Westminster und Stanley einfügen und schickte mit diesem seinen Reisegefährten umgehend nach England zurück. Aufschlussreich ist das Schicksal der Reinschrift: Da Thomas sich hoch verschuldet hatte, musste er sie seinen römischen Gläubigern zusammen mit allen weiteren Urkunden seines Klosters als Pfand überlassen, was uns zeigt, dass apostolische Schreiben nicht nur als Rechtsmittel, sondern auch als Wertobjekt großes Vertrauen genossen.

Fassen wir an dieser Stelle zusammen: Der erste Teil meiner Ausführungen hat gezeigt, dass Schriftstücke als Repräsentanten personaler Autorität im späteren Mittelalter grundsätzlich akzeptiert wurden – sofern diese Autorität unbestritten war. In aller Regel wurde im 13. Jahrhundert die Rechtskompetenz des apostolischen Stuhles ebenso wenig angefochten wie die Möglichkeit, Anordnungen im Medium der Schrift von der Person des Papstes abzukoppeln. Die formale Seite von *fides* findet ihren Ausdruck in der allgemeinen Überzeugung, dass Ausstellerwille und authentische Herkunft prinzipiell am Schriftdokument ablesbar gemacht werden können – und dies trotz der längst problematisch gewordenen Identität zwischen der Person des Urhebers und dem Schriftstück als seinem unmittelbaren Repräsentanten.⁶²

Misstrauen richtete sich gewöhnlich nicht gegen die Schriftstücke selbst, sondern gegen die mit ihrer Herstellung, ihrem Transport, ihrer Veröffentlichung und Bewahrung befassten Personen: Petenten, die falsche Tatsachen vorspiegelten, korrupte Kanzleibeamte oder böswillige Empfänger, die den Inhalt von Urkunden manipulierten, Vollzugsbeauftragte, die missliebige Urkunden unterschlugen ... Es ist in erster Linie die menschliche Seite des päpstlichen Schriftwesens, die sich als vertrauensunwürdig darstellt bzw. dargestellt wird.

Ein ähnliches Bild ergibt der Verlauf des Rechtsstreites. In seinem Mittelpunkt standen Schriftstücke, päpstliche Schreiben. Um ihre Beweiskraft und ihre rechte Auslegung drehten sich die Verhandlungen in Rom. In einem öffentlichen Verfahren wurden sie rezitiert, hantiert, kommentiert und kritisiert, mit neuen Schriftstücken umstellt, und schließlich erneut festgeschrieben. Die

⁶¹ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 170.

⁶² S. oben, Anm. 24.

grundsätzliche Beweiskraft der probatorischen Schriftstücke stand außer Frage, nachdem ihnen der Papst in einer demonstrativen Echtheitsprüfung formal die *fides* zugesprochen hatte.

Die Schriftstücke aber erklärten sich nicht selbst, sondern mussten zum Sprechen gebracht werden. In diesem Zusammenhang kam der Person des Prokurators eine entscheidende Bedeutung zu: Seine Präsenz, seine Eloquenz und gestische Ausdrucksfähigkeit, allem voran aber seine Rechtskenntnis waren von ausschlaggebender Bedeutung für den Ausgang des Verfahrens – Alain Boureau hat jüngst wieder auf die enge Verbindung von Recht und Rhetorik hingewiesen.⁶³ Nicht zu unterschätzen ist in diesem Zusammenhang auch die vertrauensbildende Bedeutung von Geschenken.⁶⁴ Kurz: auch hier kam es entscheidend auf soziale Vertrauensaspekte an. Welches Kriterium, der Besitz von Schriftbeweisen an sich oder die Fähigkeit, sie überzeugend auszulegen, in diesem Verfahren letztlich den Ausschlag gaben, muss offenbleiben.

Am Schluss meiner Ausführungen soll ein kurzer Blick auf den Gebrauch des Schriftstückes an seinem Bestimmungsort stehen. Am Sonntag Miserere Domini, dem 16. April 1206, wurde die päpstliche Sentenz von den genannten Äbten in Evesham feierlich verlesen, und zwar nach dem Wortlaut des heute verlorenen Exekutionsmandates – das Original war noch bei den Gläubigern in Rom verblieben. Es war ein symbolisches Datum, der Jahrestag des bischöflichen Angriffs auf die Freiheit des Klosters, die nun, um eine Formulierung von Peter Johanek aufzugreifen, für alle Zeit „landeskundlich“ gemacht wurde.⁶⁵ Mit der Verlesung der Urkunde und der Verankerung ihres Inhaltes in der *fama publica* verschmolzen römisch-kanonische Rechtsvorschrift und lokale, vorwiegend mündlich tradierte Rechtsgewohnheit.

Evesham hatte das Glück oder das Geschick, dass sein Recht auf Exemption auch künftig unangetastet blieb – zu seinem Nachteil: 1208 verhängte Innozenz über England das Interdikt; erst nach dessen Aufhebung 1213 bzw. 1214 wurde Abt Norreys von einem päpstlichen Legaten seines Amtes enthoben. Die Rück-

⁶³ BOUREAU, 'How law came to the monks', S. 30-31.

⁶⁴ So erwähnt Thomas als Antrittsgeschenk einen silbernen Becher im Wert von 6 Mark, ferner größere Geldgeschenke an den Papst (100 Pfund Sterling) und die Kardinäle (100 Mark), die diese aber vor dem eigentlichen Beginn des Rechtstreites nicht annehmen wollten. Die schuldigen Abschiedsgeschenke an Papst und Kardinäle konnte der hochverschuldete Thomas nicht mehr leisten, weswegen er, da ihm der Papst die *licentia abeundi* verweigerte, aus Rom fliehen musste: *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 142, 146, 200.

⁶⁵ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 198: "Et, anno revoluto, eadem die qua episcopus nactus est, possessionem jurisdictionis monasterii nostri, scilicet Dominica qua cantatur 'Misericordia Domini', per abbates de Westmonasterio et de Stanleia facta est executio sententiae domini papae ...".

kehr der in Rom zurückbehaltenen Originalausfertigung nach Evesham war ebenfalls eine Folge des Interdikts: Da König Johann Ohneland im Gegenzug alle römischen Untertanen seines Reiches verwiesen hatte, mussten auch die Gläubiger, die Thomas nach Evesham gefolgt waren, das Land verlassen – und zwar ohne die gepfändeten Urkunden.⁶⁶

Von diesem Zeitpunkt an verliert sich dann die Spur des päpstlichen Pergaments, wie die so vieler Originale. Nur in Büchern hat sich sein Wortlaut erhalten: in zwei Eveshamer Kartularen aus dem 13. und 14. Jahrhundert⁶⁷ und in der Chronik des späteren Abtes Thomas, in die es in Erinnerung an die Wohltäter der Abtei (zu denen Thomas sich zweifellos auch selbst zählte), zur Warnung an ihre Widersacher und zum Exempel für künftige Generationen wörtlich inseriert wurde.⁶⁸ Mit dieser dreifachen Abschrift wurde das päpstliche Schreiben in einen neuen Überlieferungszusammenhang gestellt: Den der lokalen Geschichts- und Rechtstradition. Welche Bedeutung hatte nun diese De- bzw. Rekontextualisierung? Als Rechtstitel waren die Abschriften wertlos, denn es fehlten ihnen die entscheidenden, dem Original eigenen Echtheits- und Beglaubigungselemente. Gesichert wurde folglich nicht die materiale Substanz, sondern die skripturale Essenz der Urkunde, und zwar im kodikalen Bewahrmedium, das eine größere Dauerhaftigkeit gewährleistete als das fragile Einzelpergament. Im neuen Überlieferungszusammenhang änderten sich auch Funktion und Wertigkeit des Schriftzeugnisses: der einst autonome Rechtstitel wurde nun ein Teil der gestalteten, lokalen Erinnerung. Er ging ein in ein Gewebe von Schriften vorwiegend kommemorativen Charakters.⁶⁹ Das Beweis-Stück (*instrumentum*) wurde zum Lehr-Stück (*documentum*).

Daneben ist ein zweiter, ebenfalls kodikaler Überlieferungsweg belegt: Eine weitere erhaltene Kopie des Schreibens findet sich im achten Band der Register

⁶⁶ Über die Umstände ihrer Rückkehr vgl. KNOWLES, *Monastic Order in England*, S. 606.

⁶⁷ Hierzu SAYERS, “‘Original’, cartulary and chronicle”, S. 374. Den genauen Wortlaut der Transkription konnte ich nicht einsehen; die Kartularabschriften scheinen aber unvollständig zu sein, vgl. den Editionscommentar in *Register Innozenz’ III.*, 8, No. 205, S. 351.

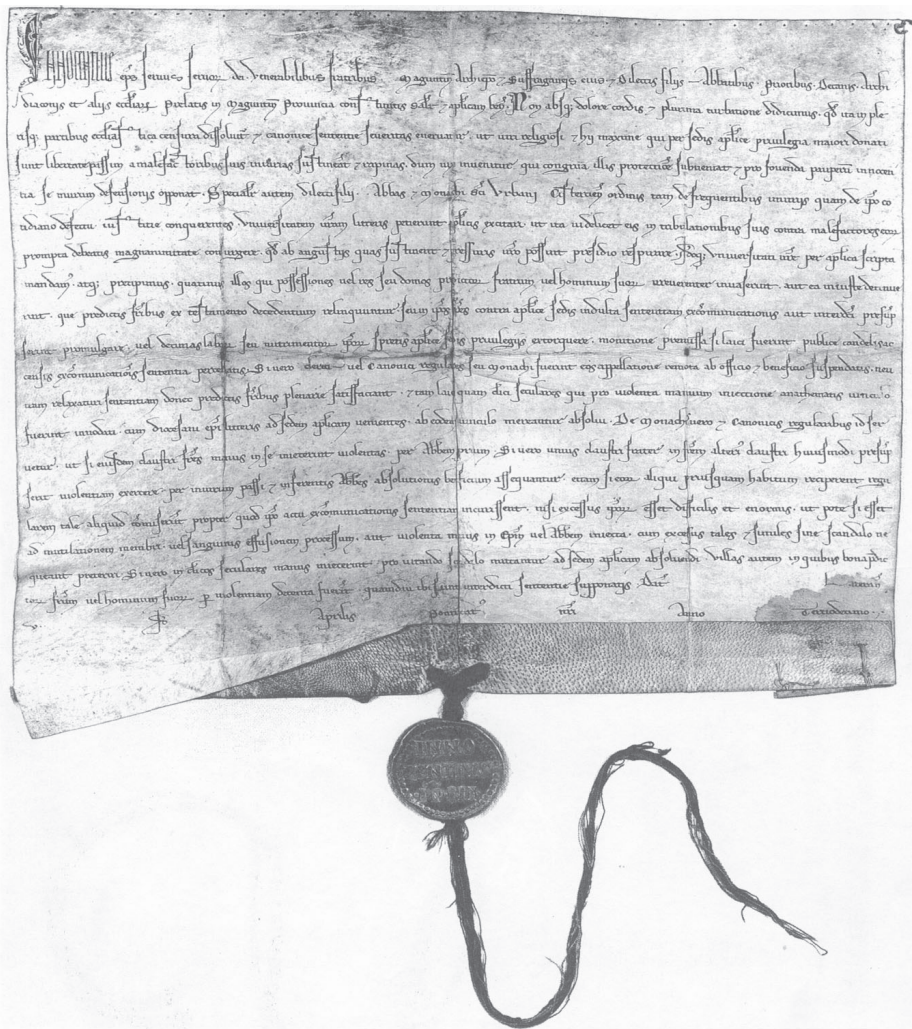
⁶⁸ *Chronicon abbatiae de Evesham*, ed. MACRAY, S. 179-183. Zum Ziel seiner Niederschrift erklärt Thomas im Vorwort zum 3. Buch der Eveshamer Chronik, das seinen Bericht enthält: “... ut benefactorum ecclesiae Eveshamensis a tempore foundationis suae memoriae sit in benedictione ... nec eximia eorum gesta oblivio posteritatis exstinguat, sed ut quod ab eis magnifice factum fuit posteris sumant in exemplum, eorum gesta stylo commendare dignum duximus nec non et eorum qui eisdem ecclesiae bona distraxerunt maleficia denotabimus, ut nos bonorum exemplis informati a malis male alienata revocare studeamus ...”.

⁶⁹ Grundsätzlich: P.J. GEARY, *Phantoms of Remembrance: Memory and Oblivion at the End of the First Millennium* (Princeton, 1994), S. 86-88, 177. Zur kommemorativen Funktion von Kartularen vgl. auch JOHANEK, “Zur rechtlichen Funktion”.

Innozenz' III. Über das päpstliche Register gelangten Teile des Briefes in die als *Compilatio tertia* bekannte Dekretalensammlung Innozenz' III. und von dort in den *Liber Extra* Gregors IX. So wurde das partikulare Schriftstück Teil der universalen kirchlichen Rechtsüberlieferung. Während in den Archiven des englischen Königs die Rotulus-Kultur gepflegt wurde, vertraute man sowohl in Rom wie auch in Evesham zur Bewahrung, Präsentation und Repräsentation von Schriftwissen auf das Buch.⁷⁰

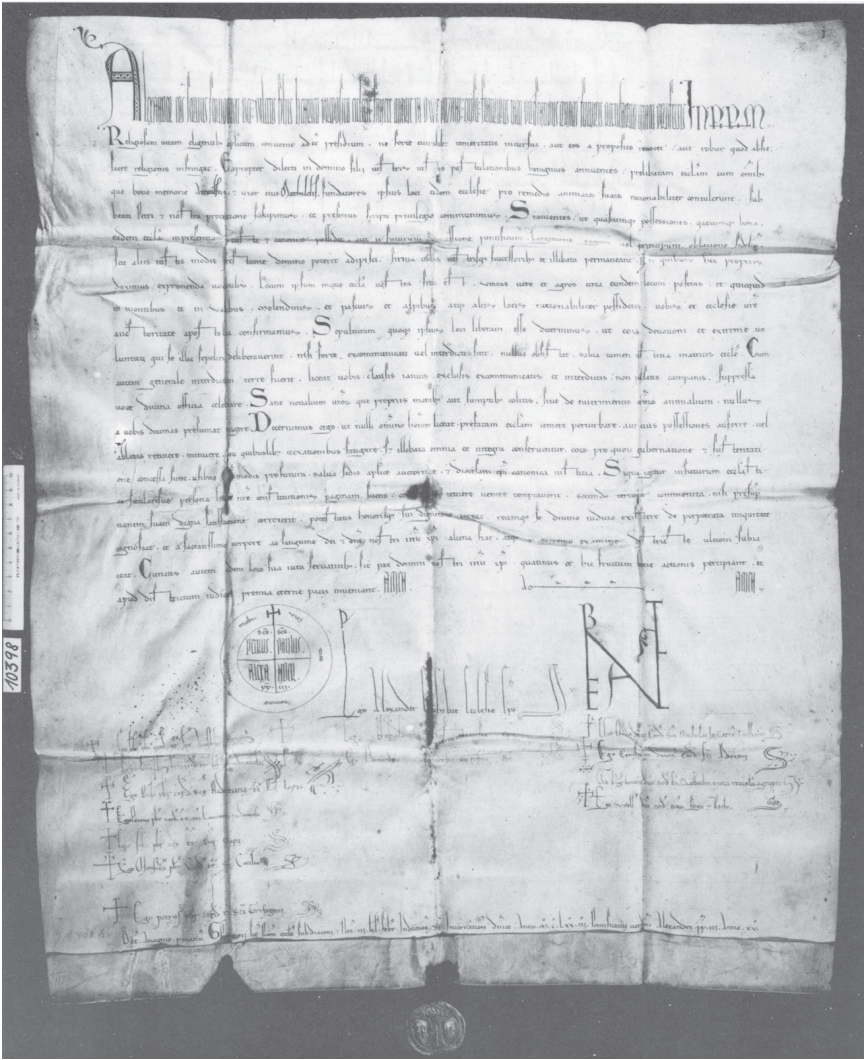
⁷⁰ Zur Rolle des Buches als Bewahrmedium vgl. KELLER, "Vorschrift, Mitschrift, Nachschrift", S. 36 ff. Zu den königlichen Rotuli vgl. CLANCHY, *From Memory to Written Record*, S. 105-113.

Abb. 1 Gratialbrief Innozenz'III. für den Erzbischof von Mainz, 1210 April 9.



Bei diesem Brief handelt es sich genau genommen um eine Mischform (sog. Mandat an Seidenschnüren), in der formale Eigenheiten von Gratialbriefen (Initiale und elongierte Schrift, weite st-Ligatur, Siegelbefestigung an Seidenfäden) und Justizbriefen (einfache Abkürzungszeichen, keine geschwärzten Majuskeln innerhalb des Kontextes) kombiniert sind. Aus: BISCHOFF, *Urkundenformate*, S. 210.

Abb. 2 Feierliches Privileg Alexanders III. für Propst Heinrich von Au, 1174 Januar 30.



Gegenüber den *litterae de gratia* fallen hier besonders die Grösse (ca. 50×70 cm) und die graphisch aufwendige Gestaltung von Protokoll (Initiale, Elongata, Verewigungsformel) und Eschatokoll (Papstunterschrift mit Rota und Monogramm, Signaturen der Kardinäle) auf. Erkennbar sind ferner innerhalb des Kontextes die geschwärzten Majuskeln der Satzanfänge, die weiten st-Ligaturen und das abschliessende, dreifache Amen. Aus BISCHOFF, *Urkundenformate*, S. 198.

Trust and Mistrust in Letters: Late Medieval Diplomacy and Its Communication Practices¹

MICHAEL JUCKER

Trust is a “diffuse social requirement”.² Establishing trust, according to Niklas Luhmann, presupposes a reduction of complexity and a social learning process. This occurs both on the personal and the systematic level. However, as Ute Frevert has recently shown, trust can also be examined within historical societies in the most varied domains.³ Both in her methodological introduction and in most of the contributions in the volume she has edited, trust is mentioned most often in the contexts of personal attachment and interpersonal contact. In this view, trust is a matter of relationships; it is the expression of personal bonds between individuals, and it carries strong connotations of social capital. Whether this is a fundamental and generally transferable constant of trust, however, is in dispute. This is as clear in Luhmann’s discussion as it is in the various discussions of trust in written communication in the present volume.⁴ Luhmann’s view of differentiation and the consequently

¹ I thank Christian Egg, Petra Schulte, Klara Hübner and Ursulina Wyss for many contributions and hints. The references do not claim to be conclusive or comprehensive; they are merely meant to reflect the state of research before 2004. An expanded German version will be published in *Zeitschrift für Historische Forschung*.

² N. LUHMANN, *Vertrauen: Ein Mechanismus der Reduktion sozialer Komplexität*, 4th edn. (Stuttgart, 2000), p. 42.

³ *Vertrauen: Historische Annäherungen*, ed. U. FREVERT (Göttingen, 2003).

⁴ In addition, in Frevert’s introduction certain aspects seem to me to be somewhat prematurely postulated as typically modern, e.g. on p. 24: “Erst mit dem Ende des Ancien Régime begann der Vertrauensbegriff eine aktivere Rolle zu spielen”. The reduction to personal

heightened demand for trust requires further examination as, particularly from a historical perspective, his view is not always satisfying. When one poses questions about 'trust' in past epochs, is the category of trust a matter of persons, systems, or things? Or is it a question of personal attachments or material characteristics? Is it useful to distinguish between dealings with written communication on the one hand and rational or irrational dealings of human beings with each other and with objects on the other? What follows is a first attempt to provide answers to these questions using the example of correspondence in late medieval diplomacy. It is hardly conclusive or comprehensive, and may give rise to further questions.

International politics and diplomacy were then, and largely remain now, matters of confidence. Mistrust of envoys is a historical and contemporary problem that is repeatedly manifested in suspicions of espionage and, in the Middle Ages as today, in allegations of corruption and abuse of the power of proxy.⁵ Probably no other system has been so strongly characterized by the

connections and relationships is prominent in most of the papers in this volume. One exception is that of D. WELTECKE, "Gab es 'Vertrauen' im Mittelalter? Methodische Überlegungen", pp. 67-89, which offers conclusions of fundamental importance both for the history of the concept and for the Middle Ages. See also the following recent publications: P. SCHULTE, *Scripturae publicae creditur: Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003: *Bibliothek des Deutschen Historischen Instituts in Rom* 101); EAD., " 'Vertrauen ist der Anfang von allem': Politische Kommunikation in oberitalienischen Stadtgemeinden des 12. und 13. Jahrhunderts", *Forschungsjournal Westfälische Wilhelms-Universität Münster* 6.1 (1997), pp. 24-26; EAD., "Friedrich Barbarossa, die italienischen Kommunen und das politische Konzept der Treue", *Frühmittelalterliche Studien* 38 (2004), pp. 153-172; EAD., "Treue und Vertrauen im Zeichen der Ermordung Ludwigs von Orléans durch Johann ohne Furcht (23. November 1407)", *Frühmittelalterliche Studien* 39 (2005), pp. 315-333. See also: G. ALTHOFF, "Einführung in die Thematik der Tagung", in: *Vertrauensbildung durch symbolisches Handeln*, in: *Frühmittelalterliche Studien* 39 (2005), pp. 247-252; C. GARNIER, "Wie vertraut man seinem Feind? Vertrauensbildung und Konsensfindung der rheinischen Kurfürsten um 1400", *ibid.*, pp. 271-291; K. VAN EICKELS, "Vertrauen im Spiegel des Verrats: Die Überlieferungschance vertrauensbildender Gesten in der mittelalterlichen Historiographie", *ibid.*, pp. 377-385; and C. GARNIER, "Freundschaft und Vertrauen in der politischen Kommunikation des Spätmittelalters", in: *Freundschaft. Motive und Bedeutungen*, ed. S. APPUHN-RADTKE and E. P. WIPFLER, (München, 2006), pp. 117-136.

⁵ V. GROEBNER, *Gefährliche Geschenke: Ritual, Politik und die Sprache der Korruption in der Eidgenossenschaft im späten Mittelalter und am Beginn der Neuzeit* (Konstanz, 2000: *Konflikte und Kultur – Historische Perspektiven* 4); M. JUCKER, "Körper und Plurimedialität: Überlegungen zur spätmittelalterlichen Kommunikationspraxis im eidgenössischen Gesandtschaftswesen", in: *Der Körper in Mittelalter und Früher Neuzeit: Realpräsenz und symbolische Ordnung*, ed. K. KELLERMANN = *Das Mittelalter* 7.2 (2002), pp. 63-83; see also LUHMANN, *Vertrauen*, pp. 43, 57; M. MAYER, *Geheime Diplomatie und öffentliche Meinung: Die Parlamente in Frankreich, Deutschland und Großbritannien und die erste Marokkokrise 1904-1906*

regular portrayal of rules and their violation, of personal attachments, and of ingenious, constantly changing procedures. Diplomacy can be seen as an ensemble of countless mutually influenced factors such as writing, orality, secrecy, publicity, procedure, individual negotiations, and personal relationships. The letters or missives that are the subject of this study play an important role within political long-distance communication. But their examination should always take non-written forms of communication and political factors into consideration as well. To what degree diplomacy's increasing continuity may have allowed a reduction in the general mistrust that was probably always present in medieval society, is beyond the scope of this paper.⁶

Drawing on late medieval diplomacy, the present paper uncovers aspects of trust and mistrust in written communication in the region of present-day Switzerland. We will examine the measures taken by contemporaries to reduce mistrust and uncertainty, and also consider the simultaneous production and maintenance of trust through written communication, by reading the letters and missives themselves. Analysing the diplomatic activity of the confederate Swiss Diet – a loose diplomatic forum of increasingly international character in the region of present-day Switzerland we will discover something about the communicative functions of diplomatic letters.⁷ Unfortunately, the collections in the regional archives are still quite poorly inventoried, so that only a small selection can be offered here, without any statistical data. Similarly, very little preliminary research has been done in the field of correspondence.⁸ In Switzerland, research on the means of communication used within the old Confederation has until now been seriously neglected. The same is true of research into correspondence with foreign powers. As concerns correspondence within the Confederation, even a first survey of the sources has not as yet been attempted. This is true of correspondence between the Diet and the individual regions, i.e. the present-day Cantons, and also for correspondence between the individual regions. Studies of the regions, their correspondence and its institutionalization, are almost non-existent. An exception is Esch's thorough and profitable study of the functioning of the Bern correspondence on the eve of the Burgundian war.⁹ A promising study by Klara Hübner on the office of messengers in Bern,

(Düsseldorf, 2002).

⁶ See also WELTECKE, "Gab es 'Vertrauen' im Mittelalter?", esp. pp. 69-71. About Luhmann *ibid.*

⁷ M. JUCKER, *Gesandte, Schreiber, Akten: Politische Kommunikation auf eidgenössischen Tagsatzungen des Spätmittelalters* (Zürich, 2004).

⁸ *Ibid.*

⁹ See A. ESCH, "Alltag der Entscheidung: Berns Weg in den Burgunderkrieg", *Berner Zeit-*

Solothurn, and Freiburg is in preparation.¹⁰ For all other regions of the Confederation, late medieval correspondence is cursorily treated teleologically as a preliminary chapter in the history of the modern mail. Political correspondence and the functions of the missive are hardly commented upon.¹¹

Using primarily urban, German-language material, this paper will discuss selected examples of trust in written communication. In addition, it will provide some perspectives on the establishment of trust by means of writing and other media. Because of the close connection between writing and the other, supplementary, forms of media used in diplomacy, it should become clear – even when this is difficult to discern in the sources – that in each case all forms of communication employed worked cooperatively. Most considerations are applicable not only to the area of Switzerland, but have more general validity; they cast light on the general problem of ‘trust’ in the field of tension between personal relationships and the world of material objects as manifested in written correspondence and diplomacy.

First, I shall discuss some typical aspects of trust and mistrust in epistolary communication. Mistrust can be accounted for in most cases by a transportation situation that was difficult to arrange, and by the resulting uncertainty of the correspondents. I will then formulate some thoughts on the relationship between writing and orality which have repercussions on the establishment of trust in diplomatic relations. Secondly, I will present some considerations of the prerequisites and possibilities for creating trust in diplomatic relations. An important aspect of this problem is the employment the most varied kinds of media and their interplay, something I have termed ‘plurimedial occurrences’.¹²

schrift für Geschichte und Heimatkunde 50 (1988), pp. 3-64. About Bern, see also C. EGG, *Schriftgut, Schreiber und Schrifthandeln des Berner Rates im 15. Jahrhundert* (Lizentiatsarbeit, Zürich, 2001) (unpublished).

¹⁰ K. HÜBNER, “‘Nüwe mer us Lamparten’: Entstehung, Organisation und Funktionsweise spätmittelalterlicher Botenwesen am Beispiel Berns”, in: *Gesandtschaftswesen im mittelalterlichen Europa vom 13. bis zum Anfang des 16. Jahrhunderts*, ed. R.C. SCHWINGES and K. WRIEDT (Stuttgart, 2003: *Vorträge und Forschungen* 60), pp. 257-278. See also: *Protokoll des Konstanzer Arbeitskreises für Mittelalterliche Geschichte*, Nr. 385 (Konstanz 2001), pp. 70-86.

¹¹ M. MOSER, *Das St. Galler Postwesen: Geschichte der stadt-st. gallischen Post (Ein Beitrag zur Verkehrs- und Kulturgeschichte der Stadt St. Gallen)*, 5 vols. (Rorschach etc., 1953-1981). About messengers in St. Gallen see also the following important paper, using new approaches: D. KLEE, “Das St. Galler Säckelamtsbuch von 1419 als sozialgeschichtliche Quelle”, in: *Schriften des Vereins für Geschichte des Bodensees und seiner Umgebung* 120 (St. Gallen, 2002), pp. 105-129; about Luzern: R. SIGRIST, *Von Boten und Postverbindungen im alten Staat Luzern* (Luzern, 1986).

¹² See JUCKER, “Körper und Plurimedialität”; ID., “Secrets and politics: Theoretical and methodological aspects of late medieval diplomatic communication”, in: *Il Segreto – The Secret*

This part will also be concerned with the establishment of trust, or the reduction of mistrust, by means of reciprocity. This was achieved through diplomatic procedures in the production, transport and use of epistolary writing. The letters themselves use specific forms of address and other verbal provisions which inspire trust in written correspondence.

Trust and Mistrust in Epistolary Communication

Let us first turn to the specific form of writing in diplomatic relations, i.e. the missive. Missives are official letters, emanating from a chancery or office, or from a ruling power directly. They are often also called legation letters.¹³ Running the risk of oversimplification, one might say that, just as letters, missives are basically correspondence from A to B with one sender and one – usually clearly defined – addressee. Such writings fulfil the primary role of interregional long-distance communication; they are presumably as old as writing itself.¹⁴ Whereas in the early Middle Ages writing had taken place on wax tablets and parchment, in the late Middle Ages paper had become prevalent. In contrast to private letters or the more familiar Ciceronian humanistic letters, the writing style of missives is characterized less by classical rhetoric than by factual pertinence and reliance on set formulas.¹⁵ Usually, they show an arrangement reminiscent of charters, although they are less strictly bound to structural norms.

In teaching letter writing, both in Latin and German the structure of the letter was treated according to classical rhetorical schemata. Apart from learning the appropriate titles of the persons in whose names letters were sent, the

(Florence, 2006 = *Micrologus* 14), pp. 275-309.

¹³ J.H. ZEDLER, *Grosses Vollständiges Universallexikon*, 64 vols. and 4 *Supplemente* (Halle and Leipzig, 1732-1754), 20, p. 498.

¹⁴ F.J. SCHMALE, "Brief, Briefliteratur, Briefsammlungen, I., Allgemein: [I] Brief", in: *Lexikon des Mittelalters* 2 (München and Zürich, 1983), col. 648; H. MAUË, "Verschlossene Briefe – Briefverschlussiegel", in: *Kommunikationspraxis und Korrespondenzwesen im Mittelalter und in der Renaissance*, ed. H.-D. HEIMANN and I. HLAVÁČEK (Paderborn etc., 1998), pp. 205-231, especially p. 206.

¹⁵ On the letters of humanists, cf. H. HARTH, "Überlegungen zur Öffentlichkeit des humanistischen Briefs am Beispiel der Poggio-Korrespondenz", in: *Kommunikationspraxis*, pp. 127-137, with bibliography. See also *Der Brief im Zeitalter der Renaissance*, ed. F.J. WORSTBROCK (Weinheim, 1983: *Kommission für Humanismusforschung* 9); and see also F. MAUELSHAGEN, "Netzwerke des Vertrauens: Gelehrtenkorrespondenz und wissenschaftlicher Austausch in der Frühen Neuzeit", in: *Vertrauen*, pp. 119-151.

essence of learning to write a letter consisted in knowledge of the five-part organization of the so-called *genera dicendi*. The structure of the letter was subdivided into the following elements: the *salutatio* (a prefatory greeting with a specification of the recipient), the *exordium* with a *captatio benevolentiae* (a preparatory or introductory formula as to the contents of the letter), the *narratio* (the actual subject-matter of the letter), the *petitio* (a petition based on the facts related in the *narratio*) and the summarizing *conclusio* (which takes up the theme and has the intention of favourably disposing the recipient to the request). This structure presented a basic scaffolding that could be followed more or less strictly by the writer of missives.

In Confederation missives, the address was found on the reverse of the folded, posted letter. Addresses could be extensive and might be embellished with many attributes, as is shown in a Bern missive to Luzern:

*Den fürsichtigen frommen und wissen schultheisen und rat zu Lutzern, unsern besondern guoten fründ und getruwen lieben eidgnosen.*¹⁶

Something equivalent to a promise to render a service can often be found in the *salutatio*. Such assurances of service probably developed out of the pious formulas used in the language of charters.¹⁷ The use of epithets such as ‘eternal’, ‘willing’, or ‘humble service’ were adapted according to the addressee’s social status or the political situation, and these epithets were employed consciously. Next follows the actual form of address; this could be more or less elaborate. Also found at the beginning of letters are confirmations of receipt, which we will discuss more thoroughly when we consider the use of epithets as a means of inspiring trust.¹⁸ A formula in German to correspond to the Latin *vale* is found only rarely in the letters discussed here. At the end of the letter a note could be found stating the date and place from which the letter was sent. This was current practice in official writings. Here the name of the sender was usually appended.

¹⁶ Bern, Staatsarchiv [henceforth StAB], A III, 4: Deutsche Missive B. f. 199.

¹⁷ Cf. for an innovative approach P. KOCH, “Urkunde, Brief und Öffentliche Rede: Eine diskurstraditionelle Filiation im ‘Medienwechsel’”, in: *Artes im Medienwechsel*, ed. U. SCHAEFER = *Das Mittelalter* 3.1 (1998), pp. 13-44, esp. pp. 16, 21, 29. See also H. BRESSLAU, *Handbuch der Urkundenlehre für Deutschland und Italien*, 3 vols. (Berlin and Leipzig, 1912-1960), 3, pp. 46 ff.; G. CONSTABLE, *Letters and Letter Collections* (Turnhout, 1976: *Typologie des sources du moyen âge occidental* 17).

¹⁸ See below.

Having become acquainted with the formal elements of the letter, we can address the matter of the communicative functions of missives or letters. This is connected to the question of trust, seen from a historical perspective. Historical scholarship has long been occupied with the medium of medieval letters.¹⁹ Unfortunately, for a long time this research has remained very poor, and official letters and missives have been edited only sporadically. Their worth as testimony to medieval communication and their importance to media scholarship have long been underestimated. Despite various attempts, a comprehensive history of late medieval diplomacy in relation to the history of the letter has not yet been written.²⁰ Research into letters is still predominantly concerned with private letters, while historical studies have adduced official writings only to supplement charters and other official documents.²¹ Only recently have urban, papal, imperial, royal, and princely correspondence and their associated diplomacy started to become a serious scholarly concern. This trend is accompanied by the gradual realization that official letters or missives should also be considered as sources for the history of communication.²² Similarly, diplomatic research is starting to suggest new directions. Whereas classic diplomatic history concerned international communications and political content, today the envoy who acted and the means he chose are central themes in the study of diplomatic practice. If this approach were to be combined with present-day research on

¹⁹ G. STEINHAUSEN, *Geschichte des deutschen Briefes: Zur Kulturgeschichte des deutschen Volkes: Erster Teil* (Berlin, 1899).

²⁰ See H.-D. HEIMANN, "Zur Einleitung", in: *Kommunikationspraxis*, p. 11; ID., "Zum Boten- und Nachrichtenwesen im niederrheinischen Raum, vornehmlich der Stadt Köln im Spätmittelalter: Aus der Werkstatt eines Forschungsprojekts, *Geschichte in Köln* 28 (1990), pp. 31-46; V. MENZEL, *Deutsches Gesandtschaftswesen im Mittelalter* (Hannover, 1892).

²¹ See also M. MAURER, "Briefe", in: *Aufriss der Historischen Wissenschaften*, ed. M. MAURER, 4, *Quellen* (Stuttgart, 2002), pp. 349-372.

²² M. KINTZINGER, *Westbindungen im spätmittelalterlichen Europa: Auswärtige Politik zwischen dem Reich, Frankreich, Burgund und England in der Regierungszeit Kaiser Sigmunds* (Stuttgart, 2000: *Mittelalter-Forschungen* 2); C. LUTTER, *Politische Kommunikation an der Wende vom Mittelalter zur Neuzeit: Die diplomatischen Beziehungen zwischen der Republik Venedig und Maximilian I. (1495-1508)* (Wien etc., 1998: *Veröffentlichungen des Instituts für Österreichische Geschichtsforschung* 34); *Gesandtschaftswesen im mittelalterlichen Europa*; F.-J. FELTEN, "Kommunikation zwischen Kaiser und Kurie unter Ludwig dem Bayern (1314-1347): Zur Problematik der Quellen im Spannungsfeld von Schriftlichkeit und Mündlichkeit", in: *Kommunikationspraxis*, pp. 51-89; P.-J. HEINIG, "Der König im Brief: Herrscher und Hof als Thema aktiver und passiver Korrespondenz im Spätmittelalter", *ibid.*, pp. 31-49; K. GERTEIS, "Reisen, Boten, Posten, Korrespondenz in Mittelalter und früher Neuzeit", in: *Die Bedeutung der Kommunikation für Wirtschaft und Gesellschaft*, ed. H. POHL (Stuttgart, 1989: *Vierteljahresschrift für Sozial- und Wirtschaftsgeschichte* 87), pp. 19-36.

writing and communication, a productive avenue might be opened up for studying diplomacy – and the meaning of the missive in diplomacy – as an extensive communication process. In such a study, writing, orality and other media would have roles to play.²³

The increasingly important and numerous missives of the fifteenth century provide an ideal type of source material. It is ideally suited for studying the problem of the communicative functions of writing in relation to the building of trust in diplomatic relations. Missives were important for the maintenance of long-distance communication between individual rulers within the Confederation, but also between envoys and their lords. Envoys delivered writings from their governments and introduced them into diplomatic negotiations in various ways.

In the cases to be analyzed here, several channels of communication can be defined. First, there are missives by rulers to their own envoys, who are participating in negotiations in the Confederation or abroad. Sometimes these writings contain binding instructions for the envoy, but at other times they merely contain vague directions for political negotiations, or information about the present situation at home. Secondly, the archives contain missives from envoys to their fellow councillors and their lords. These missives occasionally report on negotiations, but, as we shall see, they hardly ever contain any informative content. Thirdly, letters containing communications between rulers have come down to us. These are missives from ruler A to ruler B that messengers or envoys were meant to transport, present, and sometimes also read aloud in ruler B's presence, while adding information by word of mouth to the written contents. In Confederation diplomacy the first and second categories are found less often than the third. Meetings in the Confederation were of short duration, and thus could be reported orally relatively soon, often even the following day. Missives

²³ Only to mention a few: G. ALTHOFF, "Rituale – symbolische Kommunikation: Zu einem neuen Feld der historischen Mittelalterforschung", *Geschichte in Wissenschaft und Unterricht* 50 (1999), pp. 140-154; M.T. CLANCHY, *From Memory to Written Record*, 2nd edn. (Oxford, 1993); H. KELLER, "Die Entwicklung der europäischen Schriftkultur im Spiegel der mittelalterlichen Überlieferung: Beobachtungen und Überlegungen", in: *Geschichte und Geschichtsbewusstsein, Festschrift für Karl-Ernst Jeismann zum 65. Geburtstag*, ed. P. LEIDINGER and D. METZLER (Münster, 1990), pp. 171-204; *New Approaches to Medieval Communication, with an Introduction by Michael Clanchy*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1); R. SABLONIER, "Schriftlichkeit, Adelsbesitz und adliges Handeln im 13. Jahrhundert", in: *Nobilitas: Funktion und Repräsentation des Adels in Alteuropa*, ed. O.G. OEXLE and W. PARAVICINI (Göttingen, 1997), pp. 67-100.

sent during longer negotiations or during foreign missions had a better chance of survival.²⁴

Only at first sight did epistolary communication serve to convey information over a distance. Epistolary writing primarily aimed to overcome the limits of the physical body. But this kind of written communication harboured some uncertainties and grounds for mistrust. Charters were ideally promulgated in the presence of all participating communication partners, and they represented consensus over content and form of the document. This was not the case with letters. Here, there was a distance both in space and in time between author and recipient. In addition, letters had the advantage – but in a way also the disadvantage – of being able to convey any content. In this they differed from those official documents that were legally binding.²⁵ Letters might contain dissent, differences of opinion, and thereby had a potential for conflict that might lead to misunderstandings. They lent themselves to a much larger range of possible interpretations. This threefold cause of uncertainty had to be overcome for letters to be trusted.

The physical separation between sender and recipient could never be completely overcome. Writing in its epistolary forms needs the body of intermediaries, and not solely as media of transport.²⁶ Particular attention should be paid to the messenger or envoy as the person presenting letters. Missives were often orally elaborated upon by messengers or envoys, who contextualised the content of the written text. It is therefore indispensable to know how missives were used, if we are to speak about their communicative functions. Letters existed in an interplay between orality and writing. Messengers needed certain qualifications, because – particularly in diplomatic relations – the interplay between orality and literacy varied with the situation.

Research on letters and research in the field of media studies has frequently discussed the special status of epistolary communication. Werner Faulstich posits a general temporal and functional shift in the late Middle Ages from the antique personal medium – that is, the speaking messenger – to that of the written letter. Ever since, the letter's message has been merely transported. His analysis does not go far enough, however.²⁷ Meetings between messengers and

²⁴ See JUCKER, *Gesandte, Schreiber, Akten*; in general: MENZEL, *Deutsches Gesandtschaftswesen im Mittelalter*.

²⁵ See also MAURER, "Briefe", p. 350.

²⁶ I have suggested elsewhere that written communication does not replace body language. See JUCKER, "Körper und Plurimedialität".

²⁷ W. FAULSTICH, *Medien und Öffentlichkeiten im Mittelalter: 800-1400: Die Geschichte der Medien*, 2 (Göttingen 1996), pp. 267, 269-272.

rulers were more than a simple matter of delivering letters. Supplementing letters with verbal utterances, gestures, and other means of communication was positively commonplace. Horst Wenzel speaks in this context of a “bi-mediality of medieval communicational relationships”, referring to the coexistence of orality and literacy, of body-dependent and writing-dependent communication.²⁸ But the choice of ‘bi-mediality’, suggesting a dichotomy, drives a wedge between writing in the abstract and the personal relationship, a distinction that is alien to trust. Wenzel’s view – coinciding with that of Faulstich – that with increasing literacy messengers became ever more degraded to the status of mere letter carriers, obscures the overlap of oral and written communication.²⁹ In her paper on the conveyance of letters, Beate Körber has also carved out the relationship between letters and orality. She comes to the following conclusion:

The relationship between letter and conversation in the sixteenth century may be summarized in to antithetical sentences: Letters contained mainly that which was publicly decisive or related to society or that which, in the view of the sender, might without fear be entrusted to larger groups of people. That which was seen as either private or intimate or had to remain secret, on the contrary, was dealt with orally.³⁰

At least for the fifteenth century, such a stark dichotomy between orality and literacy does not hold. What is certainly correct in Körber’s thesis, is that secret conversations tended to be committed to writing less often. Particularly in war-time, the body was apportioned increased importance for conveying knowledge over distances. However, this was apparently not always possible without writing. This is shown by the existence of ciphers, which would otherwise have been useless in diplomacy.³¹ We do not witness the succession of one medium

²⁸ H. WENZEL, “Einleitung”, in: *Gespräche – Boten – Briefe: Körpergedächtnis und Schriftgedächtnis im Mittelalter*, ed. H. WENZEL (Berlin, 1997: *Philologische Studien und Quellen* 143), pp. 9-21, esp. pp. 11-12. See also ID., “Boten und Briefe: Zum Verhältnis körperlicher und nicht-körperlicher Nachrichtenträger”, *ibid.*, pp. 86-105.

²⁹ See the collection of missives in: “Alte Missiven 1444-1448”, ed. F.E. WELTI, *Archiv des Historischen Vereins des Kantons Bern* 21 (1912), pp. 1-50, here Nr. 56, p. 108: the council of Bern leaves its ambassador the option just to write or to go on diplomatic mission.

³⁰ B.-E. KÖRBER, “Der soziale Ort des Briefs im 16. Jahrhundert”, in: *Gespräche – Boten – Briefe*, pp. 244-258, esp. p. 257.

³¹ LUTTER, *Politische Kommunikation*; M. BULLARD, “Secrecy, diplomacy and the language in the Renaissance”, in: *Zeitsprünge: Forschungen zur Frühen Neuzeit* 6 (2002), No. 1-4, pp. 86-88.

by another, but rather a superimposition of media. The media used did not replace each other, but influenced each other reciprocally.

But what about trust in written communication and in the transport of letters or missives in diplomacy? One cannot simply describe diplomacy as a system of trust. This has to do with the indissoluble connection of diplomacy with war. If you have more wars, you have more diplomacy. Espionage, betrayal, rumours, conversations behind others' backs, secret agreements and forged letters lead to a climate of mistrust within diplomacy.³²

Distances in space and time had to be overcome by the sending of envoys in a way that was as useful, secure, and differentiated as possible. The means of transportation were uncertain and rather primitive; delays were a daily occurrence.³³ Especially during wars and in times of conflict the robbery of letters and the kidnapping of messengers by hostile powers took place regularly. In addition, scouts and spies were hired to steal the messengers' letters or even to murder them. Although town messengers who were officially appointed enjoyed immunity in theory, in practice this rarely, if at all, provided protection.³⁴ The infringement of immunity by foreign powers and the consequent danger to the transportation services could even lead to war. In 1511, two Confederation messengers were murdered by French troops, leading to the so-called *Kaltwinterfeldzug*. Apart from the uncertainties added in times of war, messengers also had to face the everyday danger of robbery, as they frequently transported money as well. The messengers themselves did not always inspire confidence either: they unlawfully opened letters, gambled away their payments, or arrived too late at their destinations.³⁵ The chronicler Heinrich Brennwald writes of deceptive messengers: on 6 April 1489, three false messengers appeared in Zürich to influence the proceedings against mayor Hans Waldman, who had been overthrown, through the letters they presented. They had wetted

³² See *IBID.*, pp. 77-97; see also JUCKER, "Secretas and politics"; GROEBNER, *Gefährliche Geschenke*, esp. pp. 251-265; J. ELUKIN, "The Public and the secret in government", in: *Zeitsprünge: Forschungen zur Frühen Neuzeit* 6 (2002) No. 1-4, pp. 72-76; *ID.*, "Keeping secrets in medieval and early modern English government", *ibid.*, pp. 111-129.

³³ K. GERTEIS, "Reisen, Boten, Posten", p. 19; K. HÜBNER, "Nüwe mer us Lamparten", pp. 257-258; *Auswärtige Politik und internationale Beziehungen im Mittelalter*, ed. D. BERG *et al.* (Bochum, 2002; *Europa in der Geschichte* 6).

³⁴ MENZEL, *Deutsches Gesandtschaftswesen im Mittelalter*, pp. 93-97.

³⁵ See also: KÖRBER, "Der soziale Ort des Briefs im 16. Jahrhundert", pp. 245-246; HÜBNER, "Nüwe mer us Lamparten" ".

their clothing in a river to give the appearance of men sweaty from having travelled a great distance.³⁶

Travel was restricted by adverse weather conditions – streets and paths were unsafe, and especially in winter mountain passes could be used only with great difficulty – and transportation conditions were little developed, although they varied from region to region. In addition, there was no developed postal system worthy of the name. Messenger chains, mounted messengers, and relay stations were as a rule still rare in the fifteenth century.³⁷ Only after the introduction of the imperial mail in the sixteenth century did the speed and safety of transportation improve.³⁸

Envoys had to guard against losing letters or letting them out of their hands. Especially on the road, unskilful behaviour could lead to serious problems and mistrust. A Milanese envoy in Luzern strolled nonchalantly and credulously onto the Reussbrücke, allowing French envoys to catch a glimpse of him. He presented himself to them as a merchant and saffron dealer on his way to Konstanz. But his appearance, his southern clothing and probably also his speech gave him away. The French envoys succeeded by means of a stratagem in relieving the Milanese envoy of his imperial letter. Only the intervention by the government of Luzern succeeded in restituting the letter to the envoy – after it had been wrongfully opened by the French.³⁹

Because of the difficult conditions of information conveyance, which did not exactly inspire confidence, it may be assumed that only very few letters were written, and that trust in epistolary communication was low. However, on the basis of the surviving missives we know that, despite the difficulties, threats and uncertainties, long-distance communication did take place. There was of course scepticism about the communicative ability of letters and their transport. At times envoys would write their lords that the political situation was so delicate that they would prefer to report orally in greater detail later. While on a

³⁶ Heinrich Brennwald, *Chronik*, 2, p. 314, quoted in GROEBNER, *Gefährliche Geschenke*, p. 90; see also *Dokumente zur Geschichte des Bürgermeisters Hans Waldmann*, ed. E. GAGLIARDI 2 vols. (Basel, 1911-1913: *Quellen zur Schweizer Geschichte N.F. Abt. II 1-2*), 2, *Anhang*, pp. 451-452.

³⁷ KÖRBER, “Der soziale Ort des Briefs im 16. Jahrhundert”, pp. 245-246, and the references *supra*, n. 20.

³⁸ See W. BEHRINGER, *Im Zeichen des Merkur: Reichspost und Kommunikationsrevolution in der Frühen Neuzeit* (Göttingen, 2003); K. GERTEIS, “Reisen, Boten, Posten”.

³⁹ Diebold Schilling, *Chronik*, pp. 185-186, quoted in: E. GAGLIARDI, *Der Anteil der Schweizer an den italienischen Kriegen 1494-1516*, 1 (Zürich, 1919), at pp. 681-682.

Confederation mission to France after the Burgundian war, the envoy Hans Waldmann wrote to his home town of Zürich on 29 September 1477:

Item, lieben herren, ich solt uch vil schriben, so dar ich nit getruwen, das uch die brieff werdent: Ich wil es als sparen, unz [bis] ich zuo uch selbs kum.

He was supposed to have written at length, but preferred to write nothing, because of the uncertainty of the letter's arrival, and therefore would report later, when he got home.⁴⁰ A fairly paradoxical situation, since if his writing were intercepted, the Zürich government would not have learnt that Waldmann might in fact have written much more. But the situation was warlike, with uncertainty ruling everywhere in France and Burgundy.⁴¹ The Confederation's diplomatic missions were frequently threatened. One Bern envoy even had to flee back into the Confederation as a violin player dressed in rags.⁴²

In 1499, a high-ranking envoy from Freiburg also wrote home, about negotiations in Schaffhausen, that "*vil were von disen dingen zu schreiben*": he would have had much to write, but chose not to do so.⁴³ This was probably not because he was lazy, as Viktor Menzel suggested of similar cases in his history of German diplomatic relations.⁴⁴ It is much more likely that an oral report seemed warranted; it would be much more trustworthy. Our envoy in fact entrusted the politically important information to his colleague Hans Techtermann, who was on his way back to Freiburg. This clearly shows that even towards the end of the later Middle Ages not everything was always entrusted to writing. Depending on circumstances, personal conversations and relationships were sometimes trusted more. These examples also show that transport of missives and letters was uncertain and characterized by contingency. Envoys apparently were aware of the problem and acted with appropriate scepticism.

Envoys were mistrustful of their own lords, even – as was usual in the Confederation – when they belonged to the same local authority and were col-

⁴⁰ *Dokumente ... Hans Waldmann*, 1, Nr. 144 o).

⁴¹ About the rebellions in Burgundy which occurred at the same time, see J. VAN LEEUWEN, "Rebels, texts and triumph", in this volume.

⁴² See also M. JUCKER, "Gesten, Kleider und Körperschmähungen: Ordnungsbrüche und ihre Wahrnehmung im Gesandtschaftswesen des Spätmittelalters und der Frühen Neuzeit", in: *Ordnung und Distinktion: Praktiken sozialer Repräsentation in der ständischen Gesellschaft*, ed. M. FÜSSEL and T. WELLER (Münster, 2004), pp. 215-237. Other publications on this case are in print or in preparation by the author.

⁴³ *Aktenstücke zur Geschichte des Schwabenkrieges*, ed. A. BÜCHI (Basel, 1901: *Quellen zur Schweizergeschichte* 20), Nr. 564 (13.8.1499).

⁴⁴ MENZEL, *Deutsches Gesandtschaftswesen im Mittelalter*, p. 65.

leagues. There was probably some reason for the postponements referred to in the missives. The option to convey only a small amount of banal information in writing gave the envoys the power later to recount events to their own advantage. Fixed and immutable written messages might badly reflect on them if the envoys' political situation had meanwhile worsened. Especially in cases of conflict and at times of widespread mistrust, the body would once again become the sole bearer of governmental knowledge. There were reasons for mistrust and scepticism about epistolary communication.⁴⁵

That envoys entrusted their messengers and runners with confidential oral information can no longer be established with absolute certainty. It may be assumed to have been the case as references that further explanations would be given by the messenger – "*als uch das der bott alles witter kan gesagen*"⁴⁶ occur relatively often in letters from envoys to their lords. This expression suggests that the most important information was often transmitted orally by the envoy. At the beginning of the early modern period it was still commonplace for letters to refer to later oral reporting. The following example makes clear that this, too, might produce anger and mistrust. Two Basel envoys, one of them the mayor himself, reported laconically on the Baden Disputation, a religious dispute that took place in 1526. They mentioned secret negotiations with French envoys, who were also present, but stated they would report more only upon their return. In Basel, the councillors reacted with anger, and the very day they received the missive they sent another messenger to Baden with a furious letter demanding that their two envoys immediately tell what was actually happening. The envoys apologized by the next post, writing that they had acted according to a general policy of secrecy, and for that reason had not written in greater detail. This response to the question about their earlier insufficiently detailed letter paradoxically contained a rational argument for a later oral communication. However, in line with the position taken by the envoys, it contained absolutely no further details about the secret negotiations of the kind demanded by the Basel government.⁴⁷ Writing, then, did not replace speech in diplomatic relations. Instead, it often merely prepared speech or simply elaborated on speech that was to come later. Usually, epistolary writing was of use

⁴⁵ About "rationale Skepsis" in early medieval written communication, see A. KRÄNZLE, "Der abwesende König: Überlegungen zur ottonischen Königsherrschaft", *Frühmittelalterliche Studien* 31 (1997), pp. 120-157, at p. 149. See also M. GARRISON, "Send more socks: On mentality and the preservation context of early medieval letters", in: *New Approaches*, pp. 69-99.

⁴⁶ Zürich, Staatsarchiv, B VIII 268, Nr. 76; see also A. 227, f. 1.

⁴⁷ *Aktensammlung zur Geschichte der Basler Reformation in den Jahren 1519 bis Anfang 1534*, ed. E. DÜRR and P. ROTH, 6 vols. (Basel, 1921-1950), 2, Nr. 410, 411, and also Nr. 414.

to the regional governments only as a supplement to subsequent orality with its related actualization of governmental knowledge.⁴⁸

Probably for the reasons mentioned above – and also because of the generally widespread diplomacy of secrecy – many letters contained hardly any political information. The envoys preferred to keep to themselves any politically explosive knowledge about what was taking place on stage or off, or about what was being discussed. They practised a rather restrictive informational policy. The more facts were delivered, the more dependent they became on the instructions of their colleagues back home. Consequently, we come to know very little about the political dealings of envoys. Letters are often merely written evidence that dealings were taking place; they served primarily to maintain relationships. In this sense, writing was an important medium for the establishment of trust in political communication; but it could also, when it was not detailed enough, cause mistrust. Envoys also had to write simply to show their lords that they were active. An envoy who did not write was open to the suspicion of inactivity, thereby gambling away the trust he had been shown. Trust in writing was dependent on the environment, the political context, and the content of the written text. If transportation was reliable, and if the contents of the message were banal or of a sort that would betray no information the loss of which might disadvantage the realm, then one could place much trust in writing. If transportation was uncertain, the messenger unreliable or the message confidential, then envoys preferred to refer to subsequent orality, or to oral communications accompanying their letters.

Plurimediality and Reciprocity as Means of Establishing Trust

It is possible to analyze the communicative functions of letters within diplomacy simply by opposing orality and literacy, as I have just done. However, this sharply limits the perspective for studies of trust in writing. For envoys and political authorities did not simply trust or mistrust the transportation of written missives. Rather, they resorted to additional measures to enhance trust. Processes of communication occurred not bi-medially, but in plurimedial interplay: through intertextuality, but also through the use of additional media such as signs, rituals, symbols, and specific clothing. In what follows I hope to clarify

⁴⁸ See also MAUÉ, “Verschlossene Briefe”, p. 209.

the actualizing and safeguarding of trust through means of various media and activities that should be understood in correlation with writing.

The efforts taken to safeguard communication can be easily recognized, first of all, by an additional register in the production of letters. In the chanceries of the regional authorities, the production of letters obeyed a double writing process. A draft of the letter would be written in the so-called missive books of outgoing correspondence. This allowed the members of the council to supervise the writer, while the register at the same time allowed them to refer to the letters at any future time. Only very rarely did the letter sent make it back to the chancery. It is interesting, therefore, that by no means all outgoing letters were copied. Entries exist only for the most important letters, or for those written to the most important cities, rulers, or envoys. It is striking that, e.g. in Bern, correspondence for use in 'foreign policy' was the first to be drafted in this way prior to sending. Communication with foreign powers, cities, and princes was probably more delicate, demanding more careful wording than communication with representatives of the authorities of Bern itself. Thus, the authorities 'dictated' the missives to the scribe, who had to write them into the missive books or had to present his draft to the authorities before finally preparing the missive that would be sent.⁴⁹

The reduction of uncertainty in communication through a double writing process could be increased further through the sending of multiple copies.⁵⁰ This tended to happen more often in times of crisis. To ensure that a letter arrived, two copies would be sent simultaneously. In Swiss diplomacy it sometimes happened that the same letter would be addressed both to an envoy and to the authorities at the place of a meeting. Thus, e.g. the Bern authorities wrote both to the authorities in Luzern, where a meeting was taking place, and to their envoy, even if he was already present in Luzern. In this way they could be sure that the pressing issue would be handled promptly in the Diet.⁵¹ This particular instance also shows that the speed with which information travelled might be decisive in ensuring communication. Hence the use of various channels of communication simultaneously.⁵²

⁴⁹ Very obvious in the missive collection of StAB A III 1-4.

⁵⁰ MENZEL, *Deutsches Gesandtschaftswesen im Mittelalter*, p. 195.

⁵¹ *Dokumente ... Waldmann*, 1, Nr. 144 I).

⁵² *Ibid.*, where "snell" (quickly) is mentioned. About velocity in urgent cases, cf. ESCH, "Alltag".

Further aspects of safeguarding communications on the level of the production of letters include the use of writing in code, seals, signatures, *intersigna*, and the numbering of letters.

Ciphers were used frequently in diplomacy. Studying correspondence and secret diplomacy in Florence, Melissa Bullard could show that “exploratory negotiations” were commonplace, so that letters passed through “many hands”. For this reason they could not be entrusted to normal writing. “Ambassadors routinely resorted to disguising important or sensitive information in ciphers and codes meant for particular eyes only”.⁵³ In their ciphers, they used letters of the alphabet, numbers, or special symbols. Encoding and decoding presented a recurring problem, as there was the danger that the key would be discovered.⁵⁴ Writing in code was therefore trusted only until a particular cipher became generally known. In the late medieval Confederation, however, such ingenious techniques are virtually nonexistent.

To strengthen trust in epistolary communication or to make it more certain, the seal was employed. Particularly when seals were used to close the letter, they served the safeguarding of epistolary communication. The wax seal served to securely close the missive and to authenticate the writing or the sender. A seal was not sufficient by itself: it also had to be the correct one. This was true not only of charters, such as those studied by Michael Clanchy. The practice was also explicitly aimed at the safeguarding of communication.⁵⁵ Jonathan Elukin and Hermann Maué have shown both the importance of seals in epistolary communication, and that seals could be broken.⁵⁶ As highly symbolic objects, seals were sometimes mentioned in the address of letters to invoke trust.⁵⁷ Apart from broken seals and opened missives, which understandably evoked mistrust, within Confederation communication there was yet another problem concerning seals. Envoys possessed no seal of the entire Confederation that would be available to all engaged on political business. On the more important

⁵³ BULLARD, “Secrecy, diplomacy and the language in the Renaissance”, pp. 85-86.

⁵⁴ *Ibid.*, pp. 86-88. On ciphers, see G. COSTAMAGNA, *Tachigrafia notarile e scritture segrete medievali in Italia* (Rome, 1968); W. FRANZ, *Kryptologie: Konstruktion und Entzifferung von Geheimschriften* (Stuttgart, 1988); S. SINGH, *Geheime Botschaften: Die Kunst der Verschlüsselung von der Antike bis in die Zeiten des Internet* (München, 2000).

⁵⁵ CLANCHY, *From Memory to Written Record*, pp. 308-317. B.M. BEDOS-REZAK, “Seals and sigillography”, in: *Medieval Germany: An Encyclopedia*, ed. J.M. JEEP *et al.* (New York, 2001: *The Routledge Encyclopedias of the Middle Ages* 6), pp. 710-714 and other fundamental publications by the same author.

⁵⁶ ELUKIN, “Keeping secrets”, pp. 117-118; MAUÉ, “Verschlossene Briefe”, esp. pp. 211-218.

⁵⁷ *Ibid.* and esp. MAUÉ, “Verschlossene Briefe”, p. 231.

diplomatic missions, explicit mention had to be made of the one who did the actual sealing; if this were not done, mistrust would most likely follow. In the letters of several envoys there is mention of which seal was used, whether it was the seal of Zürich, Bern, Luzern, a rural region, or even a private seal.⁵⁸ Thus a double safeguard was built in: not only was the missive secured by the seal, the letter itself could refer to the seal's quality and thus to the authenticity of the writing. Text and seal had to agree perfectly. If two seals were found on a delivered missive, or if two seals were mentioned in the text, this was, at least in Confederation diplomacy, an indication of mutual distrust. When disputes were taking place among delegates – and there always seemed to be disputes – the envoys apparently did not want to let any one power do the sealing.⁵⁹

Seals as a sign of authenticity thus certified both the piece of writing and the sender, and in this way trust could be established. This is also true for comparable features such as the signature and the *intersignum*, the incidental mention of episodes or information that only the sender and recipient could know, but that had little or nothing to do with the message to be delivered. I shall not here go into detail about this or about the *subscriptio* nor, for that matter, about the advantages of personal handwriting – the autograph – as specific security measures and features of authentication. I refer the reader to Hartmut Hoffmann's work on these aspects.⁶⁰

Yet another safeguard which might establish trust was the ingenious numbering of letters. By means of numbering, written answers could refer to earlier letters, and the recipient also knew whether letters had been lost.⁶¹ A similar, but not quite as secure procedure was mentioning the date of an earlier letter, which also occurred occasionally, e.g. in written replies.

Similar measures for establishing trust are found on the level of the production of intertextuality. These are the confirmation replies that are found very frequently in the late medieval Confederation. Many written replies contained an assurance that letters had been received. Such confirmations of receipt are not merely rhetorical formulas taken from formularies. They clearly were meant

⁵⁸ Cf. *Dokumente ... Waldmann*, 1, Nr. 144 d).

⁵⁹ Cf. *Dokumente ... Waldmann*, 1, Nr. 149.

⁶⁰ H. HOFFMANN, "Zur mittelalterlichen Brieftechnik", in: *Spiegel der Geschichte: Festgabe für Max Braubach zum 10. April 1964*, ed. K. REGEN and S. SKALWEIT (Münster, 1964), pp. 141-170, at pp. 152-154.

⁶¹ StAB, UP 61. See also A. ESCH, "Mit Schweizer Söldnern auf dem Marsch nach Italien", in: ID. *Alltag der Entscheidung: Beiträge zur Geschichte der Schweiz an der Wende vom Mittelalter zur Neuzeit: Festgabe zum 60. Geburtstag von Arnold Esch* (Bern etc., 1998), pp. 285-286, 318.

to establish trust. Confirmation of receipt today is still a common business practice. It is striking that in fifteenth-century correspondence confirmation is also frequently given about oral information.⁶² This is particularly accurately expressed in the phrase “[*euer Schreiben*] hant wir empfangen, verhöret und verstanden”.⁶³ As this phrase shows, apart from acknowledging the received letters there is also the phenomenon of confirming that the letters were heard and understood. These formulas remain general; they produce intertextuality. The term ‘to understand’ in the missives refers to the understanding of the written or even oral information conveyed.⁶⁴ It may be going too far to interpret this understanding to refer to intellectual understanding. It is not always completely clear how far this kind of confirmation and the assurance of having understood were meant to overcome the uncertainty caused by the possibility of various interpretations of the definitive written information. All we can say is, that sometimes understanding is explicitly mentioned.⁶⁵

The confirmation of having understood, and also the occasional references to the contents of the received missives, served primarily to safeguard communication itself. Only through this reciprocity did communication take place at all: the recipients had received the document, had had it read aloud or had read it personally, and some action would be taken in response. The letter had been ‘properly’ delivered and explained by the envoy or messenger. Letters of this kind ensured proper procedures and the proper handling of writing. Correspondence could not be simply sent off in the hope that the recipient would somehow get it; rather, it had to be conveyed in a series of stages, explained, and its receipt confirmed. It seems no accident that many letters from the domain of diplomacy name the messenger or envoy who delivered the letter.⁶⁶

The forms of address used in the missives are by no means rhetorical flourishes. In the Confederation, the greatest possible variety of forms of address

⁶² *Akten zur Geschichte des Schwabenkrieges*, Nr. 196. Luzern wrote on 13 April 1499 to Freiburg: “*uns sind jetz ilends dieser stund botten und geschriften komen*”.

⁶³ StAB alte Missive, Nr. 144 (17.3.1447); see also Nr. 165 (28.3.1499): “*üwer schrieben jetz an uns gangen, ... haben wir verstanden...*”.

⁶⁴ *Akten zur Geschichte des Schwabenkrieges*, Nr. 594. (22.9.1499).

⁶⁵ *Ibid.* Nr. 4. Zürich writes to Bern that the council has understood without any doubt. See also: *ibid.*, Nr. 594: “*Wir haben ettlich üwer schriften, üwern boten getan, gesechen und das ernstlich anziehen derselben doruf verstanden, dann vor uns ist beschechen ...*”.

⁶⁶ “Alte Missiven”, Nr. 12, 66, 67. Vgl. *Dokumente ... Waldmann*, 2, Nr. 247a: “*auch schicken wir üch dissen zöuger (messenger), so ist vor bi üch, Hanns Gantner. Bi dem wellen uns allzit ungespart kostens alles zuoschreibens, so üch begegnet, so wellen ouch wir für und für ander louffend botten nachsänden, damit ir dero nitt mangell haben, sunder uns bi in (ihnen) mogen verkünden und offnen, was dann die notdurft vorderf*”.

was used for cohesion and to establish mutual trust. Forms of address are a sign of the increasing integration of the Confederation regions. It is striking how often an appeal is made to mutual loyalty with the call of “*trüwe lieben eidgenossen*”. This appeal to reciprocal loyalty is found in various combinations, depending on the political situation. Regula Schmid could show that ceremonial visits between members of the Confederation became increasingly frequent from the 1470s onwards. In each case, a single region would play host, and stood in a specific relationship to the invited cities and valley inhabitants, a relationship formed by their common history and by the present context. The invitations were accepted by hundreds of men, who made their appearance as representatives of the entire invited community. The sources suggest that this form of encounter appeared for the first time in this period. Obviously these meetings served to foster cohesion. A discourse of fellowship arose almost simultaneously; it was closely related to the mutual loyalty just mentioned. Its wording was made up of biblical quotations. The call for brotherly loyalty appeared in ceremonial forms of address and in reception ceremonies, but also as a form of address in missives. Addressing one’s “*liebe Brüder*” in missives is closely connected with appeals for loyalty, and to solidarity understood in thoroughly military terms.⁶⁷ An idea originally applied only to a partner in communication began in the 1470s to be used in crises within the Confederation and when the Confederation itself felt a threat from outside.⁶⁸ Used at first only in missives from Bern to Freiburg, in this period the idea was felt to be applicable also to the other members of the Confederation. From this time onwards, in cities and towns, the language of brotherhood could be transferred to the confederate relationship; it then experienced a rapid growth.⁶⁹ A strong connection exists between the political surroundings and the use of forms of address in missives. Forms of address can hardly be said to be empty formulas.

⁶⁷ R. SCHMID, “‘Liebe Brüder’: Empfangsrituale und politische Sprache in der spätmittelalterlichen Eidgenossenschaft”, in: *Adventus-Studien*, ed. P. JOHANEK et al. (forthcoming). Cf. M. JUCKER, “‘Und willst du nicht mein Bruder sein, so ...’: Freundschaft als politisches Medium in der Eidgenossenschaft am Ende des Mittelalters”, in: *Freundschaft oder amitié? Ein politisch-soziales Konzept der Vormoderne im zwischensprachlichen Vergleich (15.-17. Jahrhundert)*, ed. K. OSCEMA, ‘Tagungsband’ forthcoming in the *Beihefte* of the *Zeitschrift für Historische Forschung*.

⁶⁸ H.C. PEYER, *Verfassungsgeschichte der alten Schweiz* (Zürich, 1978); R. SABLONIER, “The Swiss confederation”, in: *The New Cambridge Medieval History*, 7, c. 1415-c. 1500, ed. C. ALLMAND (Cambridge, 1998), pp. 645-670.

⁶⁹ SCHMID, “‘Liebe Brüder’”.

The reciprocal offers of service in interstate relationships worked to reduce conflict and to build trust. In exchange for information about diplomatic dealings and warlike proceedings, in their letters the individual cities and rural regions of the Confederation offered their friendly services to their communication partners. This was very common in correspondence within the Confederation; it was a typical feature of the long-distance function of writing in establishing trust. The mutual demonstration of friendship, affection, trust, and services made up an important part of Confederation unity, and this is manifested most clearly in missives. Cohesion within the Confederation and mutual trust were strengthened and ensured through writing. In the missives, the confederates repeatedly appealed to solidarity among the Confederation partners. A letter from Luzern to Bern during the confusion of the Zürich war clarifies mutual obligations and proclaims solidarity and reciprocal service. In it, the people of Luzern inform those of Bern that their runner has come from the battlefield and has informed them by word of mouth about the situation. They are glad to forward this information to their good friends the people of Bern, whom they also trust to deliver news back to them, just as Luzern will do for Bern in the future.⁷⁰ Luzern informs Bern about the war situation, but simultaneously demands a reply with news from Bern. The reciprocal demand for news through missives was an important feature of correspondence between the regions. The explicit connection between offers of services and attestations of trust in many of these writings is worth noting. Information demanded information in return. Without the service's return, nothing was passed on voluntarily.

In these ways trust became more predictable. Forms of address that created trust and loyalty, the exchange of news and pleasantries and the promises of services by envoys to their lords – but also between the powers – created security and certainty, both within epistolary communication and between the partners in communication. The implications of these symbolic forms of feedback were continually scrutinized to decide whether trust remained justified.⁷¹ Depending on the feedback's comprehensiveness and its additions, the missives provide us today with valuable information about the political climate and

⁷⁰ StAB, A. III 1. f. 101 (25.5.1443): "*Wir füegen üch ze wissen, ... dass als dieser brieff ist geben, unser læffer ist komen von unserm volk usser dem veld, hatt uns von mund gesagt wie die unsern uff gestern fritag ze abent ... Dis tuon wir üch ze wissen als unser gueter fründen denen wir wol getrüwennt wo es uns wol gang, das ir dervon sunderer froid enpfahent und begeren von üch, ob üch betzit begegne, ds ir uns das ouch wissen lassent, desglich was uns fürer begegnot wellen wir üch ouch wissen lassen*". See also a letter of invitation from Bern, April 1463, StAB, A. III f. 402. See also a letter of 3.2.1464, *ibid.*, f. 448.

⁷¹ See on the theoretical aspect LUHMANN, *Vertrauen*, pp. 36–37.

about trust in the correspondents' communication partners. Forms of address in diplomatic writing can be read as barometers of trust relationships.

Another very important symbolic medium of trust has not yet been mentioned: the clothing of envoys and messengers. It did not suffice to have a letter or an oral message sent to someone by just anybody. This would have caused uncertainty and mistrust. Outward appearances are still important: service personnel out of uniform are often met with hesitation and mistrust. In the late Middle Ages, clothing was more than simply a uniform. By means of the colours of rank of the individual Confederate regions, the envoys represented their affiliation to a specific power or commune. The colour of the hose, either monochrome or multi-coloured, corresponded to that of the doublet. The representatives could be recognized by their colours as belonging to a particular local power. Luzern, e.g. was blue and white, Unterwalden was white and red, and Uri mostly yellow. The rulers' colours on the clothing of envoys also formed visible signs, which were necessary signs if the envoys were to participate politically in the action at all. Only their affiliation with a ruling class, expressed by their physical appearance, allowed the envoys to negotiate. Additionally, the envoys from cities used all kinds of accessories such as hats, gold chains, and specific characteristics of status to express their higher rank over the rural representatives.⁷²

The messengers wore the same colours on their clothing and carried a staff that identified them as official messengers. Additional signs that inspired confidence were messenger cases and a coat of arms, generally displayed on the breast. The runners from Bern, e.g. took to the roads and paths armed with messenger cases guaranteeing them immunity and safe conduct, with black-and-red official attire, and with a lance that doubled as a weapon against dogs and scoundrels. They carried their written communications wrapped in oilcloth in a leather bag or on their belt.⁷³ To this spectrum of signs were added means to establish trust through the symbolic use of rings, staffs, goblets, etc. as signs of loyalty.⁷⁴ Similarly important in diplomatic relations was the presentation of gifts, which could take a wide variety of forms, and the calculated use of gold

⁷² See JUCKER, "Gesten, Kleider und Körperschmähungen".

⁷³ See K. HÜBNER, *Berns Louffende Botten von den Anfängen bis zur Reformation: Entstehung, Organisation und Funktionsweise des Berner Botenwesens zwischen Tradition und Innovation* (Bern, 'Lizenziat', 2000) (unpublished). She plans a book on the topic of messengers.

⁷⁴ See also CLANCHY, *From Memory to Written Record*, pp. 254-260, 263.

coins, pensions, and promises of material goods.⁷⁵ In these ways the production of trust was continuously augmented by means different from written letters.

In conclusion, one rare example of a breakdown in communication should be mentioned, in which a letter reached the wrong destination. The mayor and the Small Council of Basel complained to the authorities in Zürich that the latter had sent a letter to the Large Council in Basel instead of to the more influential Small Council. Basel exhorted Zürich in the clearest possible terms to refrain from this in the future. The Small Council was trying to reserve this kind of diplomatic dealings to itself, and the incorrectly addressed letter made this impossible.⁷⁶ To what degree Zürich had consciously chosen the ‘wrong’ address to disown Basel, remains unclear. Judging from Basel’s Small Council’s strong reaction, the mistake may have been intended.

Conclusion

Writing has its advantages and disadvantages. The advantage of epistolary writings lies in its ability to overcome distances in time and space, free from the limits of the body. Without this, diplomacy could not function at all. Distance, however, also gives cause for distrusting the medium of the letter itself, and above all its conveyance. This is expressed especially clearly in the world of diplomacy, closely connected as it is with war and conflict. It was precisely in times of war or the threat of war that transportation was endangered, which led to mistrust. Forged letters, robbery, roads that were difficult to tread, the kidnapping of messengers, but also secret politics promoted scepticism of the use of writing in diplomacy. Despite all this, in the fifteenth century the amount of writing kept increasing. In diplomatic correspondence this increase is not equivalent to a simultaneous increase in trust, nor does it coincide with a decrease in the importance of orality or body language. Nor can we maintain an increase in the use of reason. What can be clearly established is, that even as written correspondence increased in volume, external security measures and oral communication were accentuated.

⁷⁵ JUCKER, “Secrets and politics”; GROEBNER, *Gefährliche Geschenke*; ID., “Invisible Gifts: Corruption and the politics of information at the beginning of the 16th century”, in: *Zeitsprünge: Forschungen zur Frühen Neuzeit* 6 (2002), Nos. 1-4, pp. 98-110; see also BULLARD, “Secrecy, diplomacy and the language in the Renaissance”.

⁷⁶ Zürich, Staatsarchiv, A. 240 I (24.12.1525).

Writing often served only as a preparation for later diplomatic discussions, or it was supplemented by oral contributions by the messengers or envoys before the addressees. Trust in writing – or in communication for that matter – was produced and safeguarded plurimedially. This means that letters were safeguarded through additional intertextual means such as references to earlier writings and confirmations of receipt, but also, and above all, by the duplication of the writing process during letter production. Symbols of rulership, seals, and their mention in the text, specific clothing worn by the bearers during the letters' transport and presentation accompanied the written text of the letter. All these factors worked together and played an important role in the establishment of trust in correspondence. They were also necessary, at least in part, to reduce distrust. The developments of these various measures can be understood as social learning processes, which, however, were constantly in need of adaptation. Certainly not all measures were used at all times. This is true, e.g. of the dating of missives, much to the regret of modern historians.

An analysis of the contents of letters between the Confederation regions clearly shows that – as long as sufficient general trust existed – the contents of missives could demand, produce, or augment trust. Reciprocal offers of services and appeals to loyalty, brotherly love, and military solidarity aimed at creating a stronger bond among the communication partners. This was indispensable in situations of internal conflict and at times of external threat. Diplomacy as a social system depended on a small amount of trust in transportation and writing, but also on trust among political partners. Even in uncertainty and danger this trust seemed always present to some degree. It was probably due to the written word itself to channel dissent, in the sense that letters themselves contain the topic of dissent or trust and sometimes prolematize it. Putting dissent on paper already renders the problem abstract, thereby channelling it to a certain degree. Only in this way could contact between states be maintained in spite of a climate of suspicion. To resort to writing was also sensible in cases of distrust of others; it could signify the first step towards a reduction of conflict. Sometimes it was smarter to write rather than to appear in person, as many references by envoys attest.⁷⁷ Trust or mistrust in epistolary writing, then, depended heavily on context. Missives must therefore be studied within their respective political contexts; their social use and their own dynamics must be seen within the whole spectrum of the specific and varied activities with which they are connected.

⁷⁷ See JUCKER, "Gesten, Kleider und Körperschmähungen".

Part V:
Political Communication

Suitable for Crown and Gown: The Ritual Context of the Royal Privileges for the University of Paris

CHRISTOPH FRIEDRICH WEBER

Voire, mais j'auray *les Troys Lis*,
S'ilz me mainent en Chastellet.

FRANÇOIS VILLON, *Lais*, v. 175-176

In 1287, His Grace Yahbh-Allâhâ III, Patriarch of the Nestorian Church in the Mongolian Empire, entrusted his friend, Rabban Sâwmâ with a special mission. As ambassador of Arghôn Khân, the monk was to travel to the Christian kings in the far West and ask for allies for a planned capture of Jerusalem. Rabban Sâwmâ obeyed and took to the road – in his case the Silk Road – immediately. He came back with a written report which enables us to see late-thirteenth-century Western Europe through the eyes of a Christian Mongolian.¹

Having embarked in Constantinople, Rabban Sâwmâ set foot on firm soil again in the port of Nâpôlî in the kingdom of the same name. After a longer stay in Rome, he went northwards, on horseback, passing Tuszkân with the city

¹ E.A. WALLIS BUDGE, *The Monks of Kúblâi Khân Emperor of China, or The History of the Life and Travels of Rabban Sâwmâ, Envoy and Plenipotentiary of the Mongol Khâns to the Kings of Europe, and Markôs who as Mâr Yahbh-Allâhâ III became Patriarch of the Nestorian Church in Asia: Translated from the Syriac* (London, 1928). Cf. W. HAGE, “Yahballaha III”, in: *Gestalten der Kirchengeschichte*, 4, *Mittelalter* 2, ed. M. GRESCHAT (Stuttgart etc., 1983), pp. 92-101; A. MENGOZZI, Review of P.G. BORBONE, *Storia di Mar Yahballaha e di Rabban Sauma: Un orientale in Occidente ai tempi di Marco Polo* (Torino, 2000), in: *Hugoye: Journal of Syriac Studies* [<http://syrcom.cua.edu/Hugoye>] 6, No. 1 (2003), pars. 1-15.

of Gînôh (Genua). Here he observed that the people had no king but set up their rulers by themselves. Then, he came to the kingdom of Frangestân. In the city of Pârîz, the local king welcomed him and his companions. The king “commanded his Amîrs, saying, ‘Go forth and show them all the wonderful things which we have here, and afterwards I myself will show what I have’ ”.² The first of the Parisian wonders mentioned by the Mongolian monk was the university:

There were in it thirty thousand scholars who were engaged in the study of ecclesiastical books of instruction, that is to say of commentaries and exegesis of all the Holy Scriptures, and also of profane learning; and they studied wisdom, that is to say philosophy, and speaking, and healing, geometry, arithmetic, and the science of the planets and the stars; and they engaged constantly in writing, and all these pupils received money for subsistence from the king.³

This description of the University of Paris in 1287 is paralleled by that of the monastery of St-Denis, which directly follows in the text. According to this second description, five hundred monks lived there at the expense of the king to perform commemoration services for his ancestors continually.⁴ We may surmise that the impression made by royal expenditure at St-Denis may have influenced Rabban Sâwmâ’s view of the king’s payments to the scholars. Nevertheless, the university must have been presented to the foreign ambassador as an institution serving the king’s display of royal magnificence. That the chief of the Frangistânis – young Philip the Fair, ruling since 1285 – indeed integrated the university into his royal representation, well known to us through Elizabeth Brown’s studies,⁵ can also be seen from a later act of privileging.

² BUDGE, *The Monks of Kúblâi Khân*, p. 183. On diplomacy and the integration of envoys into royal households in late medieval Western Europe, see M. KINTZINGER, *Westbindungen im spätmittelalterlichen Europa: Auswärtige Politik zwischen dem Reich, Frankreich, Burgund und England in der Regierungszeit Kaiser Sigmunds* (Stuttgart, 2000: *Mittelalter-Forschungen* 2); *Auswärtige Politik und internationale Beziehungen im Mittelalter (13. bis 16. Jahrhundert)*, ed. D. BERG, M. KINTZINGER and P. MONNET (Bochum, 2002: *Europa in der Geschichte* 6). On contacts of the Latin West with the Mongolian world, see now the surveys by P. JACKSON, “Christians, barbarians and monsters: The European discovery of the world beyond Islam”, in: *The Medieval World*, ed. P. LINEHAN and J.L. NELSON (London and New York 2001; paperback edition 2003), pp. 93-110; F. SCHMIEDER, “Der mongolische Augenblick in der Weltgeschichte, oder: Als Europa aus der Wiege wuchs”, in: *Produktive Kulturkonflikte*, ed. F. Schmieder. (Berlin, 2005: *Das Mittelalter* 10.2), pp. 63-73.

³ BUDGE, *The Monks of Kúblâi Khân*, pp. 183-184.

⁴ BUDGE, *The Monks of Kúblâi Khân*, p. 184.

⁵ E.A.R. BROWN, *The Monarchy of Capetian France and Royal Ceremonial* (Aldershot,

On 25 August 1300 the king came to St.-Denis to celebrate the feast of St.-Louis. Only three years before, Philip the Fair's grandfather had been canonised, not least through the efforts of his grandson.⁶ Now, in the *anno santo*, Pope Boniface VIII gave permission to the abbey, where the relics of the royal saint were kept, to celebrate the feast solemnly. On this special occasion, King Philip summoned the vice-chancellor and the proctors of the University of Paris to appear before him at St.-Denis. They had to present a royal charter received recently, because the king wanted to confirm it on St-Louis' day.⁷ In this way, the confirmation of the charter became a gesture of royal grace, executed as part of the ceremonial of a day on which Philip probably presented his rule with the aid of dynastic and holy legitimization.

But was the University of Paris really integrated into the Capetian capital as harmoniously as it appeared to Rabban Sâwmâ in 1287? Our initial impression is that of a well-ordered relationship between crown and university, dominated, in Philip the Fair's times, by the king. But what was the basis of the symbolic interaction between crown and university in 1300? The University of Paris was no royal foundation as, e.g. the University of Naples, founded in 1224 by an edict of Emperor Frederick II.⁸ It had emerged from an autonomous process in the twelfth century and therefore could receive privileges and introduce statutes only retrospectively.⁹

1991: *Collected Studies Series* 345). Cf. also J. EHLERS, "Selbstheiligung: Legitimationsstrategien der französischen Monarchie im 13. und 14. Jahrhundert", in: *Herrschaft und Kirche im Mittelalter. Gedenksymposium zum ersten Todestag von Norbert Kamp (*24.08.1927 †12.10.1999) am 13.10.2000 in Braunschweig* (Braunschweig, 2000), pp. 35-45; M. KINTZINGER, "Der weiße Reiter: Formen internationaler Politik im Spätmittelalter", *Frühmittelalterliche Studien* 37 (2003), pp. 315-353. Ralf Lützelshwab has started research in this field for his *Habilitation* thesis "Macht durch Reliquien? Die Reliquienschatze europäischer Herrscher und Herrscherkirchen in Europa vom 12. bis zum 16. Jahrhundert." Cf. R. LÜTZELSHWAB, "Prag – das neue Paris? Der französische Einfluß auf die Reliquienpolitik Karls IV.", in: *Pilgrimage in European Culture: Proceedings of the Symposium Příbram, May 26th–29th 2004*, ed. D. DOLEŽAL and H. KÜHNE (Frankfurt am Main etc., 2006: *Europäische Wallfahrtsstudien* 1), pp. 201-219.

⁶ Cf. *AASS* August 5 (Paris and Roma, 1868), pp. 528-536.

⁷ *Chartularium Universitatis Parisiensis*, ed. H. DENIFLE and E. CHÂTELAIN, 4 vols. (Paris, 1889-1897; repr. Bruxelles, 1964) [henceforth CUP], 2, Nos. 612 and 614, pp. 84-86.

⁸ *Die mittelalterliche Universität*, ed. H. RÜTHING (Göttingen, 1973: *Historische Texte - Mittelalter* 16), No. 24, pp. 48-50; cf. G. ARNALDI, "Fondazione e rifondazioni dello Studio di Napoli in età Sveva", in: *Università e società nei secoli XII-XVI: Centro Italiano di Studi di Storia e d'Arte, Pistoia: nono convegno internazionale, Pistoia, 20-25 settembre 1979* (Pistoia, 1982), pp. 81-105; L. CAPO, "Federico II e lo Studium di Napoli", in: *Studi sul Medioevo per Girolamo Arnaldi*, ed. G. BARONE, L. CAPO and S. GASPARRI (Roma, 2001: *I libri di Viella* 24), pp. 25-54.

⁹ See H. RASHDALL, *The Universities of Europe in the Middle Ages*, new edn., ed. F.M.

What was the use of writing in the establishment of the relationship between the developing corporation of masters and scholars and the royal government in the city of Paris? In this context, trust in writing is signified both by the written fixation of this relationship in a text and by the part assigned to the resulting text, as an objectified document, in the performance of symbolic communication.¹⁰

POWICKE and A.B. EMDEN, 3 vols. (Oxford, 1936), 1, pp. 15-16; J.W. BALDWIN, "Masters at Paris from 1179 to 1215: A social perspective", in: *Renaissance and Renewal in the Twelfth Century*, ed. R.L. BENSON and G. CONSTABLE with C.D. LANHAM (Oxford, 1982), pp. 138-172; S.C. FERRUOLO, *The Origins of the University: The Schools of Paris and Their Critics, 1100-1215* (Stanford, CA, 1985); ID., "The Paris statutes of 1215 reconsidered", *History of Universities* 5 (1985), pp. 1-14; J. VERGER, "A propos de la naissance de l'université de Paris: Contexte social, enjeu politique, portée intellectuelle", in: *Schulen und Studium im sozialen Wandel des hohen und späten Mittelalters*, ed. J. FRIED (Sigmaringen, 1986: *Vorträge und Forschungen* 30), pp. 69-96; ID., "The Universities and Scholasticism", in: *The New Cambridge Medieval History*, 5, c. 1198-c. 1300, ed. D. ABULAFIA (Cambridge, 1999), pp. 256-276. See now the overview by J. EHLERS, "Paris: Die Entstehung der europäischen Universität", in: *Stätten des Geistes: Große Universitäten Europas von der Antike bis zur Gegenwart*, ed. A. DEMANDT (Köln, Weimar and Wien, 1999), pp. 75-90.

¹⁰ On symbolic communication in the Middle Ages, cf. G. ALTHOFF, "The Variability of Rituals in the Middle Ages", in: *Medieval Concepts of the Past: Ritual, Memory, Historiography*, ed. G. ALTHOFF, J. FRIED and P.J. GEARY (Washington, D.C., and Cambridge, 2002: *Publications of the German Historical Institute*), pp. 71-87; ID., "Herrschaftsausübung durch symbolisches Handeln oder: Möglichkeiten und Grenzen der Herrschaft durch Zeichen", in: *Comunicare e significare nell'alto medioevo* (Spoleto, 2005: *Settimane di studio del Centro italiano di studi sull'alto medioevo* 52), pp. 367-391; J. MARTSCHUKAT and S. PATZOLD, "Geschichtswissenschaft und 'performative turn': Eine Einführung in Fragestellungen, Konzepte und Literatur", in: *Geschichtswissenschaft und "performative turn": Ritual, Inszenierung und Performanz vom Mittelalter bis zur Neuzeit*, ed. J. MARTSCHUKAT and S. PATZOLD (Köln, Weimar and Wien, 2003: *Norm und Struktur* 19), pp. 1-31; B. STOLLBERG-RILINGER, "Symbolische Kommunikation in der Vormoderne. Begriffe – Thesen – Forschungsperspektiven", *Zeitschrift für Historische Forschung* 31.4 (2004), pp. 489-527, all with additional literature. The use of written documents in acts of symbolic communication is the topic of research project A1, 'Urkunde und Buch in der symbolischen Kommunikation mittelalterlicher Rechtsgemeinschaften und Herrschaftsverbände', directed by Hagen Keller, which forms part of Sonderforschungsbereich 496, that started its work at Münster in 2000. Recent examples from the work of the project are H. KELLER, "Die Herrscherurkunden: Botschaften des Privilegierungsaktes – Botschaften des Privilegentextes", in: *Comunicare e significare*, pp. 231-278; P. WORM, "Beobachtungen zum Privilegierungsakt am Beispiel einer Urkunde Pippins II. von Aquitanien", *Archiv für Diplomatik* 48 (2003), pp. 15-48; C. DARTMANN, "Schrift und politische Kommunikation in der italienischen Stadtkommune", in: *Schrift Stadt Region / scrittura città territorio*, ed. G. ALBERTONI and H. OBERMAIR (Innsbruck, Wien and Bolzano, 2006: *Geschichte und Region / Storia e regione* 15.1), pp. 62-74; C.F. WEBER, "Ces grands privilèges: The Symbolic use of written documents in the foundation and institutionalization of medieval universities", *History of Universities* 19.1 (2004), pp. 12-62; ID., "Public encounters between the city council and the episcopal lord in late medieval

The written document which was to become the foundation for the development of rituals such as that of 25 August 1300 dates from July 1200. It is a charter issued by King Philip Augustus (fig. 1).¹¹ This charter was the result of a violent conflict between the scholars and the citizens of Paris. At the height of the conflict the king's highest ranking official in the city, Thomas, the *prévôt* of Paris, and his men raided a hospice and killed some students, among them the bishop-elect of Liège. The masters and scholars turned to the king, who set up an enquiry by two of his men, Gautier the Chamberlain and Philippe de Lévis, and punished the accused *prévôt* with incarceration.¹² After relating these circumstances, the charter continues by providing for the future security of the scholars. They are granted royal protection against injuries by the citizens, and also the *privilegium fori* by which the scholars were exempted from the town's jurisdiction.¹³

Basel: Routine jobs or transitions in symbolic communication?", in: *Symbolic Communication in Late Medieval Towns*, ed. J. VAN LEEUWEN (Leuven, 2006: *Mediaevalia Lovaniensia, Series I: Studia* 37), pp. 29-41. Cf. also the proceedings, gathered in *Frühmittelalterliche Studien* 38 (2004), of the conference held at Münster in June 2003 under the title 'Öffentlichkeit und Schriftendenkmal in der mittelalterlichen Gesellschaft'.

¹¹ CUP 2, No. 1, pp. 59-61.

¹² The medieval sources for the context of the privilege are already discussed by C.E. BULAEUS, *Historia Universitatis Parisiensis*, 6 vols. (Paris, 1665-1673; repr. Frankfurt am Main, 1966), 3, pp. 1-4. See Roger of Howden, *Chronica magistri Rogeri de Houedene*, ed. W. STUBBS, 4 vols. (London, 1868-1871: *Rerum Britannicarum Medii Aevi Scriptores [Rolls Series]* 51.1-4; repr. Wiesbaden, 1964), 4, pp. 120-121. On the two royal officials, see J.W. BALDWIN, *The Government of Philip Augustus: Foundations of French Royal Power in the Middle Ages* (Berkeley, Los Angeles and London, 1986; 1991²), pp. 107 and 112.

¹³ Cf. R. PUZA, "Privilegium fori", in: *Lexikon des Mittelalters* 7 (München, 1995), cols. 228-229. Similar problems between scholars and citizens had already led to the promulgation of Frederick Barbarossa's famous constitution 'Habita' of 1155 or 1158. Because most scholars at Paris were members of the clergy, Philip Augustus' charter guaranteed them protection through the privileges due to ecclesiastics. Cf. P. KIBRE, *Scholarly Privileges in the Middle Ages: The Rights, Privileges, and Immunities, of Scholars and Universities at Bologna, Padua, Paris, and Oxford* (London, 1961: *Mediaeval Academy of America: Publications* 72); P. CLASSEN, "Libertas scolastica – Scholarenprivilegien – Akademische Freiheit im Mittelalter", in: ID., *Studium und Gesellschaft im Mittelalter*, ed. J. FRIED (Stuttgart, 1983: *Schriften der Monumenta Germaniae Historica* 29), pp. 238-284, at pp. 241-253; H. KELLER, *Zwischen regionaler Begrenzung und universalem Horizont: Deutschland im Imperium der Salier und Staufer, 1024 bis 1250* (Berlin, 1986: *Propyläen Geschichte Deutschlands* 2), pp. 310-311. The supervision of the University of Paris by the Church was then ordered by Pope Gregory IX's bull *Parens scientiarum* of 13 April 1231, which prescribed the way the chancellor of the cathedral school of Notre-Dame in Paris and the masters had to take public oaths on behalf of the *studium* and the jurisdictional duties of the bishop of Paris; CUP 1, No. 79, pp. 136-139; cf. G.A. ZINN, "Parens Scientiarum", in: *Medieval France: An Encyclopedia*, ed. W.W. KIBLER and G.A. ZINN (New York and London, 1995),

For the later ritual use of this privilege, the final passage of the charter's text before the corroboration is of special interest:

So that this will be conscientiously and with constant right eternally confirmed, we order that our present *prévôt* and the people of Paris reconfirm what has been ordered in the presence of the scholars with an oath in good faith. And furthermore, whosoever on whom we will confer the office of *prévôt* of Paris will reinforce this with a public oath in good faith in the presence of the scholars at the beginning of his office as *prévôt*, on the first or second Sunday at one of the churches of Paris, after he has been reminded of everything mentioned above.¹⁴

The regulations of the charter were therefore supposed to be sworn to by the *prévôt de Paris* and by the citizens of Paris in the presence of the scholars (“*in conspectu scholarium*”).¹⁵ The oath was probably sworn *corporaliter*, in words and gestures.¹⁶ Having its origin in the settlement of a straightforward conflict, the royal protection privilege was to be integrated into the ceremony of every *prévôt* of Paris's assumption of office. Philip Augustus had obviously intended the solution of the original conflict by a public ritual to be effective beyond the current situation. He had wanted to stabilise the notoriously unstable relationship between town and gown. The promissory oath taken by the *prévôt* in 1200 survives in a later vernacular form. According to this, he swore that he in turn

p. 697; A.L. GABRIEL, “The conflict between the chancellor and the university of masters and students at Paris during the Middle Ages”, in: *Die Auseinandersetzungen an der Pariser Universität im XIII. Jahrhundert*, ed. A. ZIMMERMANN (Berlin and New York, 1976: *Miscellanea Mediaevalia* 10), pp. 106-154. Not until this time the rights of king and bishop in the city of Paris were defined in the *Forma pacis* of December 1222; see J. EHLERS, *Die Kapetinger* (Stuttgart, Berlin and Köln, 2000), p. 133.

¹⁴ “*Ut autem hec cautius custodiantur et stabili imperpetuum jure firmentur statuimus, ut prepositus nunc noster et populus Parisiensis omnia que predicta sunt in conspectu scholarium se bona fide servaturos juramento confirment. Et de cetero semper quicumque officium prepositure Parisiensis administrandum a nobis acceperit, inter ipsa prepositure sue initia, dominica scilicet prima vel secunda, in una ecclesiarum Parisiensium, postquam exinde summonitus fuerit, coram scholaribus predicta omnia se bona fide servaturum publice juramento confirmabit*” (CUP 1, No. 1, pp. 59-61; *Recueil des actes de Philippe Auguste Roi de France*, ed. E. BERGER et al., 4 vols. (Paris, 1916-1979: *Chartes et diplômes relatifs à l'histoire de France* 6.1-4) [henceforth RAPA], 2, pp. 200-203, No. 644.

¹⁵ On the office of the *Prévôt de Paris*, see E. LALOU, “Prévôt”, in: *Lexikon des Mittelalters* 7, cols. 198-201, esp. cols. 199-200: “III. Der Prévôt von Paris”; W.C. JORDAN, “Prévôt de Paris”, in: *Medieval France*, p. 758.

¹⁶ Cf. P. HOFMEISTER, *Die christlichen Eidesformen: Eine liturgie- und rechtsgeschichtliche Untersuchung* (München, 1957).

would have the citizens of Paris swear to maintain the privilege.¹⁷ That this oath was integrated into a public ritual was typical of what Paolo Prodi has termed the “*società giurata*” of the central and later Middle Ages.¹⁸

Fourteenth-century sources reveal even more about the forms of the ritual. Philip the Fair saw to it that the oath was respected by his officials. In March 1302, he issued an order that, on the assumption of office by the *prévôt* of Paris, the charter of Philip Augustus should be read out in Latin and then explained in French to the *servientes* of the *prévôt*, i.e. to the *sergents*, lawyers, and notaries of the Grand Châtelet de Paris. This had to be repeated every two years, on the Sunday after All Souls, in the presence of university representatives.¹⁹ The *prévôt* had to remind his officials of his oath on the charter and admonish them to heed the privilege when swearing their oath to him.²⁰ This ‘network’ of further oaths bound the groups participating in the ceremony, such as the citizens of Paris and the subordinates of the *prévôt*, into a legal relationship with the university as established by the charter of 1200.

The relationship between the university and the *prévôt* is illuminated by a consideration of the place of the oath-taking and by the order in which the oaths were sworn. Unfortunately, we do not know anything about the ceremony of the *prévôt* of Paris’s taking office before the second half of the thirteenth century, except his oath to the king.²¹ Neither the privilege of 1200 nor the later

¹⁷ CUP 1, No. 67, pp. 122-123.

¹⁸ Cf. P. PRODI, *Il sacramento del potere: Il giuramento politico nella storia costituzionale dell’Occidente* (Bologna, 1992). The character of the promissory oath was based on binding the oath-taker to the oath in the future (as stated in a definition by John Duns Scotus, teaching at Paris a century later); see L. KOLMER, *Promissorisches Eide im Mittelalter* (Kallmünz, 1989: *Regensburger historische Forschungen* 12), pp. 52 ff.

¹⁹ See A. SERPER, “L’administration royale de Paris au temps de Louis IX”, *Francia* 7 (1979), pp. 123-139; F. AUTRAND, “Châtelet de Paris”, in: *Lexikon des Mittelalters* 2 (München and Zürich, 1983), cols. 1771-1772; J.R. STRAYER, *The Reign of Philip the Fair* (Princeton, 1980), who focuses on the administrative structures and the royal office holders.

²⁰ “Item quia labilis est hominum memoria et servientes dicti prepositi Parisius frequenter mutantur, volumus ut istud privilegium legatur de biennio in biennium in presentia prepositi Parisiensis et omnium servientium suorum et aliquorum magistrorum de Universitate ad hoc per Universitatem deputatorum, et quod lecto privilegio et exposito in Gallico dicat prepositus suis servientibus: ‘Volo vos scire, quod ego juravi istud privilegium servare, et ideo precipio vobis sub juramentis vestris et sub omni pena quam possum vobis infligere, ut diligenter servetis istud privilegium quod juravi’. Et fiet dicta manifestatio privilegii et intimatio prima vice dominica proxima post festum Omnium Sanctorum proxime nunc venturum. Et sic deinceps de biennio in biennium in futurum” (CUP 2, No. 624, pp. 94-95).

²¹ See O. MARTIN, *Histoire de la Coutume de la Prévôté et Vicomté de Paris*, 2 vols. (Paris, 1922-1930; 1972³), 1, pp. 37-42.

ordinances specify in which of the Parisian churches the newly appointed official had to take his oath in the presence of the university.²² Later, *prévôts* took the oath in those churches and convents on the left bank of the Seine, which served as meeting places for the university. Apart from St-Julien-le-Pauvre, where the University often met, since the middle of the thirteenth century these were mainly the chapter houses of the Mendicant convents and that of St-Bernard, the college of the Cistercians on the Chardonnet, and the refectory of St-Mathurin.²³ The royal official, whose office, the Grand Châtelet, was situated at the head of the bridge on the right bank of the Seine, had to come to a meeting place of the university on the *rive gauche* where the assemblies of the university took place, as well as teaching and preaching. This underlines the separation of the ritual of the oath from that of his taking office. Although the oath was an integral part of the chain of events of every *prévôt*'s assumption of office, it was clearly dominated by the university through the choice of place.

The meaning of the place for the ritual is evident in the serious disputes between the university and the *prévôt* of Paris during the 1360s. Jean Bernier, *prévôt*, had for three years refused to "renew the oath in any of the churches of Paris".²⁴ The university therefore complained to King Charles V. On 20 August 1366, the king ordered that the oath had to be taken at St-Eloi, which duly happened.²⁵ The royal order transferred the scene to the *Ile de la Cité*, to the priory church directly opposite the royal palace.²⁶ This solution, however, was acceptable only in this particular situation. At the culmination of a serious conflict the king put his foot down for "our beloved daughter, the *universitas* of masters and scholars of Paris".²⁷ The following year, when the new *prévôt*

²² Cf. CUP 2, No. 531, p. 3.

²³ See R. CAZELLES, *Nouvelle Histoire de Paris: De la fin du règne de Philippe Auguste à la mort de Charles V, 1223-1380* (Paris, 1972), p. 245; in detail K. RÜCKBROD, *Universität und Kollegium: Baugeschichte und Bautyp* (Darmstadt, 1977), pp. 86-95, and EHLERS, *Paris*, p. 78. For the origin and history of St-Bernard, see C.H. LAWRENCE, "Stephen of Lexington and Cistercian university studies in the thirteenth century", *The Journal of Ecclesiastical History* 11 (1960), pp. 164-178, and R. SCHNEIDER, "Studium und Zisterzienserorden", in: *Schulen und Studium*, pp. 321-350, at pp. 324-335.

²⁴ CUP 3, No. 1327, pp. 156-157.

²⁵ CUP 3, Nos. 1324-1325, pp. 151 ff, and No. 1327, p. 156.

²⁶ CAZELLES, *Nouvelle Histoire*, p. 238.

²⁷ CUP 3, No. 1332, pp. 158-159: "*Gravem querimoniam dilecte filie nostre universitatis magistrorum et scolarium Parisiens. recepimus, ...*". This on 18 March 1367, concerning a different affair.

Hugues Aubriot appeared on the *rive gauche* to take his oath, at the chapter house of St-Bernard, the academics noted that he “came to the university”.²⁸

On 30 June 1381, Hugh’s successor Audoin Chauveron also took his oath at St-Bernard. On that occasion he asked for a notarial instrument. This text reveals the single stages of the ritual, in which the charter of Philip Augustus was still staged.²⁹ Just as the other general assemblies of the Alma Mater, it probably opened with a sermon by a member of the university.³⁰ Next, an official representative of the vice-chancellor gave a speech. In 1381 this was Jean Goulain, a professor of theology. He reminded the *prévôt* of the series of privileges that the Kings of France had given to the university for its protection, and which his predecessors in office had affirmed by oath. The charter of Philip Augustus was explicitly referred to. This privilege was then read aloud by Audoin Chauveron himself “in French and in Latin with loud voice and in understandable manner”. Afterwards, the *prévôt* was to answer that he would respect all university liberties as long as they did not violate his oath to the king. Under these conditions he then took the oath.³¹

This chain of events shows that the university controlled not only the place but also the performance of the ritual. This explains why it did not take place in situations of open conflict, as in the years prior to 1381, when in the end the intervention of the king had been required. Jean Goulain must have had this crisis in mind when he stressed the tradition of consensus and the deed of Philip Augustus this consensus was founded on.

Acts of symbolic communication were incorporated in the university’s traditions about its privileges and their confirmation. In the fourteenth century the French Nation, one of the four Nations at the University of Paris, produced a cartulary into which the university’s royal privileges were copied.³² The text of the charter of 1200, opening the series, is preceded by a miniature depicting the presentation of the royal charter as it was imagined later (fig. 2). Similar to

²⁸ CUP 3, No. 1336, pp. 163-164.

²⁹ CUP 3, No. 1459, pp. 299-300; cf. P. KIBRE, *Scholarly Privileges*, p. 167.

³⁰ Unfortunately, this is not mentioned under the year 1381 but in a different document, concerning the *prévôt*’s oath of the year 1361: CUP 3, No. 1255, p. 74.

³¹ “*Obediencia et omnibus iuribus domini nostri regis per omnia semper exceptis et salvis, premissa, quatinus me tangunt, fideliter observare pro posse iuramento promitto*” (CUP 3, No. 1459, p. 300).

³² H. OMONT, “Le ‘Livre’ ou ‘Cartulaire’ de la Nation de France de l’Université de Paris”, *Mémoires de la Société de l’Histoire de Paris et de l’Île-de-France* 41 (1914), pp. 1-130. Cf. P. KIBRE, *The Nations in the Mediaeval Universities* (Cambridge, MA, 1948: *Mediaeval Academy of America: Publications* 49).

his royal seal, Philip Augustus is depicted sitting on a folding stool, wearing his crown and a robe decorated with the *fleur-de-lis*. Surrounded by his council, he presents the sealed charter to the kneeling *universitas* of the masters and scholars, which is headed by three representatives who express their request using rhetorical gestures. The two men standing directly in front of the king may be intervenors; most likely, however, they are the king's men mentioned in the charter text, Gautier the Chamberlain and Philippe de Lévis to whom the king had entrusted the investigation of the case of the murdered scholars. Their gestures support this interpretation. The councillor facing Philip Augustus points to the second of the two men. He in turn faces the group receiving the charter and directs the group's attention to the document with gestures of his hand.³³

In this way the cartulary not only made the contents of important documents available to the members of the Nation, but it also presented a pictorial image that future readers were to have in front of their eyes when consulting the copy of the charter of 1200. The charter was not only regarded as a text; its granting was also visualized in a ritual context of royal grace, with its specific forms and with the symbolic gestures accompanying the grant.³⁴ Such images were probably imagined by the members of the university of Paris when, on the occasion of the *prévôt*'s taking the oath, they heard in public how King Philip and his successors gave their community "*plura et diversa laudabilia privilegia*".³⁵

In Paris, then, we have an early example of the institutionalization of an older *universitas* that repeatedly came into conflict with the city. The university and the Capetian royal house determined their relationship through a charter and through the rituals by which government was created in the Middle Ages. By its display in a public ritual and by its sometimes spectacular confirmations, the charter of Philip Augustus remained a medium that decisively contributed to the constitution of the university. The document containing the royal regulations did not owe its authority to the text only, but also to the performative function of the charter. In the thirteenth and fourteenth centuries, the royal privilege and the oath it required of the *prévôt* did not solve the structural problems between town and gown; they did, however, create an institutionalized

³³ MS Paris, Bibliothèque Nationale de France, n.a.l. 2060, f. 55r. Described by OMONT, *Livre*, pp. 3 and 12, and KIBRE, *Scholarly Privileges*, pp. 402-403.

³⁴ See G. ALTHOFF, "Huld: Überlegungen zu einem Zentralbegriff der mittelalterlichen Herrschaftsordnung", *Frühmittelalterliche Studien* 25 (1991), pp. 259-282; repr. in ID., *Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde* (Darmstadt, 1997), pp. 199-229.

³⁵ CUP 3, No. 1459, p. 299.

framework for the solution of any conflicts that might occur. Although bound to protect the rights of the university, the *prévôts* of the fourteenth century continuously had their disputes with this institution – mostly for arresting students.³⁶ Therefore, some of them refused to take the oath. This policy stresses the oath's power and underlines the charter's importance for the university, which was expressed by its members in public speech and splendid miniatures.

From the monarchy's point of view, the granting of privileges to the university provided a possibility to display royal power. The issue of the first charter by Philip Augustus was not only emphasized in the panegyric work of William the Breton (c. 1165–after 1226), but was also well known to contemporary writers on the other side of the Channel as, e.g. Roger of Howden († c. 1201).³⁷ Later French kings, such as Charles V, even forced the university to accept the idea that Charlemagne had transferred the Alma Mater from Athens and Rome to Paris.³⁸ Due to this legend, the university was called “*la fille du Roy*”. When Louis XI addressed her in his edict of 1474 first as “*filia nostra carissima*”, he used the Nominalism dispute to decree what the curriculum had to include in the future.³⁹ Under penalty of annulling the university's royal

³⁶ Cf., e.g. CUP 2, No. 619, pp. 91–92; 3, No. 1223, pp. 32–36; No. 1324, pp. 151–152; No. 1454, pp. 293–297, and No. 1590, p. 541–542; RASHDALL, *Universities*, 3, pp. 429–430; P. CLASSEN, “Die ältesten Universitätsreformen und Universitätsgründungen des Mittelalters”, in: ID., *Studium und Gesellschaft*, pp. 170–196, at p. 185.

³⁷ *Oeuvres de Rigord et de Guillaume le Breton, historiens de Philippe-Auguste*, ed. H.-F. DELABORDE, 2 vols. (Paris, 1882–1885), 1, p. 230; see also BALDWIN, *Masters*, p. 140, and Roger of Howden, *Chronica*, ed. STUBBS, 4, pp. 120–121.

³⁸ See A. BORST, *Geschichte an mittelalterlichen Universitäten* (Konstanz, 1969: *Konstanzer Universitätsreden* 17), pp. 19–20; F. REXROTH, “König Artus und die Professoren: Gründungsfiktionen an mittelalterlichen englischen Universitäten”, *Jahrbuch für Universitätsgeschichte* 1 (1998), pp. 13–48, at pp. 15–18; and J. EHLERS, *Charlemagne, l'Européen entre la France et l'Allemagne*, with an Introduction by W. PARAVICINI (Stuttgart, 2001: *Conférences annuelles de l'Institut Historique Allemand* 7), pp. 23–24, referring to Robert Gaguin's *Compendium de Francorum gestis* of 1495.

³⁹ Jean Gerson, *Querela Nomine Universitatis ad Senatam Parisiensem, habita adversus Familiam Caroli de Savoisy, Mense Julio Anni 1404*, in: Johannes Gerson, *Opera Omnia*, ed. L.E. DU PIN, 5 vols. (Antwerpen, 1706; repr. Hildesheim, Zürich and New York, 1987), 4, cols. 571–582, at col. 573: “Puis par Charles-Magne le grand feus plantée à grands labeurs en France en la cité de Paris; & tant amée & chier tenue, que les tres nobles Roys de France ont voulu que je sois nommée la fille du Roy par civile adoption”. ; CUP 4, No. 2134, pp. 366–367; cf. RASHDALL, *Universities*, 1, pp. 429–430 and 542. See F. EHRLE, *Der Sentenzenkommentar Peters von Candia, des Pisaner Papstes Alexanders v.: Ein Beitrag zur Scheidung der Schulen in der Scholastik des vierzehnten Jahrhunderts und zur Geschichte des Wegestreiches* (Münster, 1925: *Franziskanische Studien: Beihefte* 9), with an edition of Louis XI's edict of 1 March 1474, pp. 305–321.

privileges, this edict was read aloud and sworn to in solemn congregations at St-Bernard and St-Mathurin in March and April 1474. In 1481 and 1482, further royal letters on the subject were publicized in a similar way. They were inserted into the university's registers and cartularies, just as the edict had been. This so-called reformation of the University of Paris happened under the supervision of the *prévôt* of Paris, who attended the assemblies.⁴⁰

Following the policy of his father, who used the great reform of 1452 to restrain the university's autonomy, Louis XI put the university under his control by publishing his decrees using the community's traditional ritual mechanisms.⁴¹ The legend of Charlemagne's *translatio studii* and the tradition of royal patronage during the preceding centuries served to legitimize this policy. A similar point of view once had given a visitor from a distant culture such as Rabban Sâwmâ the impression that the University of Paris was an institution of the French crown.

⁴⁰ EHRLE, *Sentenzenkommentar*, pp. 315-321. In the records of the French Nation it is called "*Edictum Regium super Reformatione*" (*ibid.* p. 316).

⁴¹ On the relationship between the University of Paris and the French monarchy in the fifteenth century, see J. VERGER, "Schools and Universities", in: *The New Cambridge Medieval History*, 7, c. 1415-c. 1500, ed. C. ALLMAND (Cambridge, 1998), pp. 220-242, at pp. 235-237.



Fig. 1 Charter of Philip II for the University of Paris (1200). Paris, Archives Nationales, M 66^A, no. 1 (from J. BOUSSARD, *Nouvelle Histoire de Paris: De la fin du siècle de 885-886 à la mort de Philippe Auguste* (Paris, 1976), fig. 120, p. 328).



Fig. 2 Miniature from the Cartulary of the French Nation. MS Paris, Bibliothèque Nationale de France, n.a.l. 2060, f. 55r (Photo: AKG Berlin)

Peace Treaties in Italian City Communes: Public Interaction and Written Record¹

CHRISTOPH DARTMANN

In his 1943 edition of private peace treaties from medieval Tuscany, Gino Masi discusses the genesis and character of the documents he collected.² According to Masi, a *Carta pacis privatae* was meant to protect its owner from being summoned before a court by a judge for a matter on which an agreement had already been reached out of court. Furthermore, Masi continues, the *Carta* could be used against attempts by the opposite party to renew the dispute. This characterization is adapted to a modern understanding of the court as a legitimatizing authority dealing with private disputes. It is also adapted to the idea of a modern treaty, whose validity can be asserted before a court provided it has been written down. In the end, the *Carta* as discussed by Masi is backed by the concept of a powerful state guaranteeing peace among its citizens.³

¹ The present paper has been presented at the International Medieval Congress (Leeds, 14-17 July 2003) and at the workshop 'Symbolic Communication in the Late Medieval Town: Tradition, Innovation and Perception' (Leuven, 14 November 2003). A German version, discussed at the international colloquium 'Öffentlichkeit und Schriftdenkmal in der mittelalterlichen Gesellschaft' (Münster, 27-28 June 2003) has been published as "Friedensschlüsse im kommunalen Italien: Öffentliche Interaktion und schriftliche Fixierung", *Frühmittelalterliche Studien* 38 (2004), pp. 355-369. The proceedings of the Louvain workshop have been edited by Jacqueline van Leeuwen as *Symbolic Communication in Late Medieval Towns*, ed. J. VAN LEEUWEN (Leuven 2006: *Mediaevalia Lovaniensia, Series I: Studia* 37), pp. 29-41. I would like to thank all participants for their ideas and discussion, especially Michael T. Clanchy.

² *Collectio chartarum pacis privatae medii aevi ad regionem Tusciae pertinentium*, ed. G. MASI (Milan, 1943: *Orbis Romanus* 16).

³ For the history of the state, see: W. REINHARD, *Geschichte der Staatsgewalt: Eine*

Recent works on the settlement of medieval disputes and pre-modern legal practices in Italy, such as Chris Wickham's work on rural Tuscany and Andrea Zorzi's on Florence, have shown Masi's description of the *Carta pacis* to be anachronistic.⁴ This research has shown that bringing a matter into court was just one of many strategies to settle a dispute. Frequently, *faits accomplis* would have proven more successful. The documents edited by Masi give proof of this, for they occasionally record amicable solutions. These came about either during legal proceedings or they were supposed to bring about a reversal of a judgement in retrospect.⁵ This recent research suggests that the question of the functions and effectiveness of written records is to be asked anew. The answer has implications for our ideas about the trust that could be put in the written word. There is of course no need to emphasize the importance of literacy in communal Italy.⁶ From the thirteenth century onwards, legal and admin-

vergleichende Verfassungsgeschichte Europas von den Anfängen bis zur Gegenwart (München, 1999); for the history of the settlement of disputes: M. T. CLANCHY, "Law and love in the Middle Ages", in: *Disputes and Settlements: Law and Human Relations in the West*, ed. J. BOSSY (Cambridge, 1983), pp. 47-67; *The Settlement of Disputes in Early Medieval Europe*, ed. W. DAVIES and P. FOURACRE (Cambridge, 1986); G. ALTHOFF, *Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde* (Darmstadt, 1997); H. KAMP, *Friedensstifter und Vermittler im Mittelalter* (Darmstadt, 2001); S. PATZOLD, *Konflikte im Kloster: Studien zu Auseinandersetzungen in monastischen Gemeinschaften des ottonisch-salischen Reichs* (Husum, 2000: *Historische Studien* 463), pp. 20-51.

⁴ C. WICKHAM, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford, 2003); ID., "Ecclesiastical dispute and lay community: Figline Valdarno in the twelfth century", *Mélanges de l'École française de Rome: Moyen âge* 108 (1996), pp. 7-93; A. ZORZI, "'Ius erat in armis': Faide e conflitti tra pratiche sociali e pratiche di governo", in: *Origini dello Stato: Processi di formazione statale in Italia fra medioevo ed età moderna*, ed. G. CHITTOLINI, A. MOLHO and P. SCHIERA (Bologna, 1994: *Annali dell'Istituto storico italo-germanico: Quaderni* 39), pp. 609-629; ID., "Negoziazione penale, legittimazione giuridica e poteri urbani nell'Italia comunale", in: *Criminalità e giustizia in Germania e in Italia: Pratiche giudiziarie e linguaggi giuridici tra tardo medioevo ed età moderna*, ed. M. BELLABARBA, G. SCHWERHOFF and A. ZORZI (Bologna, 2001: *Annali dell'Istituto storico italo-germanico: Contributi* 11), pp. 13-34; ID., "La cultura della vendetta nel conflitto politico in età comunale", in: *Le storie e la memoria: In onore di Arnold Esch*, ed. R. DELLE DONNE and A. ZORZI (Florence 2002: *Reti medievali: E-book Reading* 1), pp. 135-170.

⁵ See, e.g. *Collectio*, ed. MASI, pp. 169-171, No. 1, 44 (Prato, 1285. Jul. 25); pp. 154-56, No. 1, 39 (Pistoia, 1283 Oct. 12). For Siena, see e.g. D. WALEY, "A blood-feud with a happy ending: Siena, 1285-1304", in: *City and Countryside in Late Medieval and Renaissance Italy: Essays Presented to Philip Jones*, ed. T. DEAN and C. WICKHAM (London and Ronceverte, 1990), pp. 45-53.

⁶ For the use of writing in the Italian city communes, see: *Statutencodices des 13. Jahrhunderts als Zeugen pragmatischer Schriftlichkeit: Die Handschriften von Como, Lodi, Novara, Pavia und Voghera*, ed. H. KELLER and J.W. BUSCH (München, 1991: *Münstersche*

istrative proceedings and hearings seem surprisingly modern; they suggest a comprehension of legal documents not unlike that of our bureaucratic present. However, both the context of the process of writing and the use of the texts written show that bureaucratic proceedings are only one part of what went on. The 'functioning' of the document can be comprehended only when we consider both the communicative contexts of writing and those of the enactment and adoption of the written texts.⁷ We owe the written texts to proceedings which are often best described as acts of symbolic communication. These proceedings are highly formalised processes of interaction, which legitimized the written texts.⁸

These ideas can be verified by a study of the material collected by Masi. Let us consider the solemn peace treaties concluded in communal societies. This material is well suited to provide an answer to the question, how solidly written documents remained embedded into public interaction despite all increases in the use of literacy (*Verschriftlichung*) and the legalization of social life.

Mittelalter-Schriften 64); *Kommunales Schriftgut in Oberitalien: Formen, Funktionen, Überlieferung*, ed. H. KELLER and TH. BEHRMANN (München, 1995: *Münstersche Mittelalter-Schriften* 68); *Formen der Verschriftlichung und Strukturen der Überlieferung in Oberitalien: Studien über Gestalt, Funktion und Tradierung von kommunalem Schriftgut des 12. und 13. Jahrhunderts*, ed. H. KELLER and M. BLATTMANN (München, forthcoming: *Münstersche Mittelalter-Schriften*); H. KELLER, "Vorschrift, Mitschrift, Nachschrift: Instrumente des Willens zu vernunftgemäßem Handeln und guter Regierung in den italienischen Kommunen des Duecento", in: *Schriftlichkeit und Lebenspraxis im Mittelalter: Erfassen, Bewahren, Verändern*, ed. H. KELLER, C. MEIER and TH. SCHARFF (München, 1999: *Münstersche Mittelalter-Schriften* 76), pp. 25-41; ID., "Über den Zusammenhang von Verschriftlichung, kognitiver Orientierung und Individualisierung: Zum Verhalten italienischer Stadtbürger im Duecento", in: *Pragmatische Dimensionen mittelalterlicher Schriftkultur (Akten des Internationalen Kolloquiums 26.-29. Mai 1999)*, ed. C. MEIER et al. (München, 2002: *Münstersche Mittelalter-Schriften* 79), pp. 1-22.

⁷ C. DARTMANN, "Schrift im Ritual: Der Amtseid des Podestà auf den geschlossenen Statutencodex der italienischen Stadtkommune", *Zeitschrift für Historische Forschung* 31 (2004), pp. 169-204.; H. KELLER and C. DARTMANN, "Inszenierungen von Ordnung und Konsens: Privileg und Statutenbuch in der symbolischen Kommunikation mittelalterlicher Rechtsgemeinschaften", in: *Zeichen – Rituale – Werte: Sinnschichten und Deutungsstrategien symbolisch vermittelter Wertevorstellungen (Internationale Tagung des SFB 496 in Münster, 22.-25. Mai 2002)*, ed. G. ALTHOFF (Münster, 2004: *Symbolische Kommunikation und gesellschaftliche Wertesysteme* 3), pp. 201-223.

⁸ G. ALTHOFF and L. SIEP, "Symbolische Kommunikation und gesellschaftliche Wertesysteme vom Mittelalter bis zur französischen Revolution: Der neue Münsterer Sonderforschungsbereich 496", *Frühmittelalterliche Studien* 34 (2000), pp. 393-412; B. STOLLBERG-RILINGER, "Zeremoniell, Ritual, Symbol: Neue Forschungen zur symbolischen Kommunikation in Spätmittelalter und Früher Neuzeit", *Zeitschrift für Historische Forschung* 27 (2000), pp. 389-405; *Zeichen-Rituale-Werte*.

'Private' Peace Treaties

First, let us cast a glance at the 'private' peace treaties collected by Masi. The edition contains agreements between citizens or *contado*-inhabitants who pardon the wrongs they did one another. They promise to refrain from further acts of violence and from legal proceedings. In these cases, the *mise en scène* of a peace can only be outlined. The only gesture that is sometimes mentioned is the exchange of a kiss on the mouth as a sign of reconciliation and willingness to ensure peace.⁹ This kiss was performed before several witnesses and a public notary. There are also some explicit references to oaths sworn on a gospel book, on the altar.¹⁰ Occasionally, there are mentions of a wife or a relative who gave his consent either during the act of reconciliation or at the conclusion of the agreement.¹¹ The places where the treaties were concluded show that there was an audience from the region. In the countryside, the Pieve, the parish church or a place outside the church often served as a meeting point.¹² Making peace was an interactive action, during which the content of the document that was later drawn up was expressed in words and gestures before the group of people affected. The reconciliation became binding when the words and gestures exchanged were recorded in the text of the treaty.¹³

⁹ *Collectio*, ed. MASI, pp. XV-XVI, observes the first examples for the mid-thirteenth century. See for earlier kisses of peace: K. SCHREINER, " 'Gerechtigkeit und Frieden haben sich geküßt' (Ps. 84, 11): Friedensstiftung durch symbolisches Handeln", in: *Träger und Instrumentarien des Friedens im hohen und späten Mittelalter*, ed. J. FRIED (Sigmaringen, 1996: *Vorträge und Forschungen* 43), pp. 37-86, at pp. 49-50 and pp. 78-85.

¹⁰ *Collectio*, ed. MASI, pp. 22-23, No. 1, 2 (Pistoia, 1162); pp. 24-26, No. 1, 3 (Fagna, 1170 Sep. 16). See P. PRODI, *Il sacramento del potere: Il giuramento politico nella storia costituzionale dell'Occidente* (Bologna, 1992); P. HOFMEISTER, *Die christlichen Eidesformen: Eine liturgie- und rechtsgeschichtliche Untersuchung* (München, 1957).

¹¹ *Collectio*, ed. MASI, pp. 61-65, No. 1, 12 (Passignano, 1238 Mar. 19); pp. 70-71, No. 1, 14 (San Gimignano, 1243 Jun. 30).

¹² *Collectio*, ed. MASI, pp. 24-26, No. 1, 3 (Fagna, 1170 Sep. 16); pp. 27-29, No. 1, 4 (S. Donato in Poggio, 1173 Oct. 12).

¹³ The importance of the people present at treaties is underlined by P. SCHULTE, " 'Omnis homo sciatur et audiat': Die Kontrolle kommunalen Handelns in Como im späten 12. und 13. Jahrhundert", *Mélanges de l'École française de Rome* 110.2 (1998), pp. 501-547, revised edition in: *Schrift im Wandel – Wandel durch Schrift: Die Entwicklung der Schriftlichkeit im Mittelalter: CD-ROM des Sonderforschungsbereichs 231 "Träger, Felder, Formen pragmatischer Schriftlichkeit im Mittelalter" an der Westfälischen Wilhelms-Universität Münster*, ed. F.-J. ARLINGHAUS et al. (Turnhout, 2003: *Utrecht Studies in Medieval Literacy* 6a) and in *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages: A CD-ROM and Book*, ed. F.-J. ARLINGHAUS et al. (Turnhout, 2006: *Utrecht Studies in Medieval Literacy* 6b) (as PDF on the CD-ROM); EAD., "Scripturae publicae creditur": *Das Vertrauen in Notariatsurkunden im kom-*

The meaning of formalised interaction is even clearer in some cases, quoted by Masi, in which the act of reconciliation affected people living in more than one locality. In August 1283, e.g. a reconciliation was brought about between men of the adjoining villages of Piteglio and S. Marcello in the Contado of the Tuscan city of Pistoia.¹⁴ The reasons for the dispute, which arose in the neighbourhood of Piteglio, are unknown. Dectus, who was called Malaradice, and Segna Iacobis, both from S. Marcello, had hurt their opponents with swords or lances. The attackers were fined by judges of the commune of Pistoia: Dectus was to pay 50 pounds for striking his sword and hurting two men's legs, drawing blood. Segna was to pay 200 pounds for scarring his opponent's face. After the legal proceedings had finished, the commune of Pistoia ordered a 'peace treaty' between the men from Piteglio and S. Marcello. On Saturday 14 August, the commune of Piteglio chose one of its members as the authorized representative who was to conclude the peace. The setting for the assembly was the commune's meeting place; the peace was performed at an assembly, summoned correctly with all formal devices. According to the text, the Podestà authorized the representative of the commune with the councillors' and the municipal assembly's consent and will.¹⁵ Even if the text does not explicitly mention the ways in which the persons cited articulated their consent, one may count on affirmative exclamations such as "*Ita sit*" or the like having been heard. This formal interaction established the representative's authority to act as if both the commune of Piteglio and the council were present themselves.¹⁶

munalen Italien des 12. und 13. Jahrhunderts (Tübingen, 2003: *Bibliothek des Deutschen Historischen Instituts in Rom* 101), pp. 137-176; TH. BEHRMANN, "L'atto giudiziario e il suo pubblico: Osservazioni partendo da documenti milanesi e novaresi del XII e XIII secolo", in: *Legislazione e prassi istituzionale nell'Europa medievale. Tradizioni normative, ordinamenti, circolazione mercantile (secoli XI-XV)*, ed. G. ROSSETTI (Naples, 2001: *Europa mediterranea: Quaderni* 15), pp. 175-208.

¹⁴ See for this conflict *Collectio*, ed. MASI, pp. 131-134, No. 1, 33 (Piteglio, 1283 Aug. 14); pp. 140-149, No. 1, 35-37 (Piteglio, 1283 Aug. 22); pp. 154-156, No. 1, 39 (Pistoia, 1283 Oct. 12).

¹⁵ *Ibid.*, p. 132, No. 1, 33: "*Dominus Mone potestas comunis et universitatis de Pitellio, de consensu et voluntate ac etiam auctoritate ... suorum et dicti comunis consiliariorum et ipsi consilarii, una cum predicto potestate, de consensu et de voluntate aliorum hominum dicti comunis*" authorizes a representative to act in the name of the commune and *universitas* of the named village.

¹⁶ The mission includes the authority "[*ad*] *procurandum que in predictis* [i.e. the peace treaty with the men from S. Marcello, C.D.] *et circa predicta et quodlibet* [!] *predictorum erunt opportuna, et que natura facti desiderat et requirit et que idem potestas, consilium et comune universum predictae terre Pitellii facere posset si adeesset* [!]" (*ibid.*, p. 133).

The actual peace treaty was performed a week later, on Sunday, in the church of Piteglio.¹⁷ Again, the document does not hint at the exact course of events of the peace ceremony. It only mentions the kiss of peace between the authorized representatives of the commune of Piteglio and the two men from S. Marcello who had been accused of the most serious attacks. Afterwards, these two, Dectus and Segna, reconciled themselves with the men they had wounded. All this happened in the presence of the Podestà of the commune of Piteglio and a local cleric.

The records are the product of multistage proceedings. During these proceedings, the functions of those involved were pointed out to different public assemblies on two different days. First, there was the public choice of a representative, and a written records of this public interaction was to be kept. This interaction formed the basis on which the representative could act during the solemn act of reconciliation. The reconciliatory act itself was also recorded in a charter.

The genesis of charters can only be understood if the communicative context in which they originate is reconstructed. Their claims to validity cannot be put down to the mere fact that a legally valid document was produced. Charters played their part in conjunction with public acts of symbolic communication. These public acts founded and consolidated social and legal relationships; they did so in the ways in which they were recorded in the charters.

Solemn Peace Treaties

Let us now focus on the solemn peace treaties which ended the drawn-out, bloody feuds in the city communes known as the struggles between the 'Guelfs' and 'Ghibellines'. Everyday life in the municipal community was steeped in disputes in which wide circles of politically influential families were involved. The names of the opposing parties, the so-called 'Guelfs' and 'Ghibellins', suggest that these conflicts had a political nucleus.¹⁸ Rivalries

¹⁷ *Ibid.*, pp. 140-149, No. 1, 35-37 (Piteglio, 1283 Aug. 22).

¹⁸ For the history and reception of 'Guelfs' and 'Ghibellines' see: P. HERDE, *Guelfen und Neoguelfen: Zur Geschichte einer nationalen Ideologie vom Mittelalter zum Risorgimento* (Stuttgart, 1986; *Sitzungsberichte der Wissenschaftlichen Gesellschaft an der Johann Wolfgang Goethe-Universität Frankfurt am Main* 22.2); for internal conflicts, cf. G. TABACCO, "Ghibellinismo e lotte di partito nella vita comunale italiana", in: *Federico II e le città italiane*, ed. P. TOUBERT and A. PARAVICINI BAGLIANI (Palermo, 1994), pp. 335-343; *Violence and Civil Disorder in Italian Cities 1200-1500*, ed. L. MARTINES (Berkeley, Los Angeles and London,

within the municipal elites played the main role. The process of peace-making had to take political realities into account, and, above all, it had to guarantee the peaceful communal living of enemies within a single city. Usually, a compensatory act came about thanks to the intervention of a strong foreign power or person who acted as an arbiter between the conflicting parties. He could mediate and find a solution thanks to his standing and authority.¹⁹

Because of these peacemakers' involvement, the character of the legal proceedings changed. Instead of treaties such as those referred to above, arbitration procedures were used involving arbiters who were not themselves involved in the conflict. Their sentences were legitimized through the conflicting parties' conferral of the authority to decide on the arbiter. This was only possible because a compromise had been reached beforehand. At first sight, the arbiter had a strong position, boosted by many authoritative documents. In practice, however, arbitral judgements were often the product of detailed debates. The result of these legal proceedings was usually put into a formal, ceremonial sentence.²⁰ Because of the scope of these thirteenth-century conflicts, municipal institutions were hardly able to negotiate and guarantee a binding peace.²¹ The communal authorities and the people's assembly nevertheless made up an audience that was indispensable during the peacemaking process.

As an example, let us consider the peace treaty brought about by Henry VII in the city of Asti in Piedmont in 1310. When the Luxembourg king crossed the western Alps on his way to Rome in the autumn of the year 1310, it was part of his 'programme' to confirm the king's rights in the *Regnum Italicum* and to pacify the conflicts in northern and central Italy. As in many other cities, Henry had made a vow of fidelity in Asti. With him, citizens who had been exiled in the course of the many disputes came back into the city, and the parties were forced to accept a peace settlement. Even if the measures taken were to prove successful only in the short term, the course of events does not fail to elucidate

1972: *UCLA Center for Medieval and Renaissance Studies: Contributions* 5).

¹⁹ For papal legates as arbiters, see: H. DICKERHOF, "Friede als Herrschaftslegitimation in der italienischen Politik des 13. Jahrhunderts", *Archiv für Kulturgeschichte* 59 (1977), pp. 366-389; W. MALECZEK, "Das Frieden stiftende Papsttum im 12. und 13. Jahrhundert", in: *Träger und Instrumentarien des Friedens*, pp. 249-332.

²⁰ For arbitration, cf. W. SELLERT, "Schiedsgericht", in: *Handwörterbuch zur deutschen Rechtsgeschichte* 4 (Berlin, 1990), cols. 1386-1393; J. WEITZEL, "Schiedsgericht", in: *Lexikon des Mittelalters* 7 (München, 1995), cols. 1454-1455. For Italy: S. FREY, *Das öffentlich-rechtliche Schiedsgericht in Oberitalien im XII. und XIII. Jahrhundert* (Zürich, 1928).

²¹ For the history of communal Italy, see P. JONES, *The Italian City-State from Commune to Signoria* (Oxford, 1997); D. WALEY, *The Italian City-Republics* (London and New York, 1988³).

the ways in which acts of symbolic communication were entwined with written records.²²

During the second week of November, King Henry VII had his solemn *adventus* in Asti.²³ Against the will of the party of the *Solarii*, who ruled the city, he brought their opponents, the *De Castello*, with him. On the following Sunday, 15 November, he made the commune swear loyalty in a first public act. On this day, the Podestà and the Capitano del Popolo of Asti assembled the city council and a good many other citizens for a meeting, during which two citizens were authorized to swear an oath of loyalty to Henry for the commune. As a countermove, they were to ask for a privilege that guaranteed all the city's statutes and customary rights. The text of the notarial charter recording the act of authorization is followed by a list of about 150 names of the men who were present during the assembly and had agreed to the authorization.²⁴

After this initial meeting, the oath of loyalty was embedded in a ceremonial act, performed during an assembly of the people.²⁵ While the citizens were assembled in the town square, Henry, his retinue and the municipal representatives were inside a hall, which was visible from the square. Before the assembly in the hall, the authorized representatives of the city of Asti swore an oath of loyalty on the gospels and kissed the king's feet as a sign of their *fidelitas*. Afterwards, the people's assembly was informed about the goings-on and was asked to confirm them. According to the charter which was drawn up to record the proceedings, the assembly greeted the oath and the kiss with unanimity and expressed its agreement. Only after the commune's ratification was King Henry said to have accepted the promise of loyalty.

²² Henry VII's route through Italy is presented by W.M. BOWSKY, *Henry VII in Italy: The Conflict of Empire and City-State, 1310-1313* (Lincoln, NE, 1960); R. PAULER, *Die deutschen Könige und Italien im 14. Jahrhundert: Von Heinrich VII. bis Karl IV.* (Darmstadt, 1997), pp. 41-114. For Asti in the communal period, cf. E. ARTIFONI, "La Società del 'popolo' di Asti fra circolazione istituzionale e strategie familiari", *Quaderni storici* 51 (= 17.3) (1982), pp. 1027-1053; R. BORDONE, "Progetti nobiliari del ceto dirigente del comune di Asti al tramonto", *Bollettino storico-bibliografico subalpino* 90 (1992), pp. 437-494; L. CASTELLANI, *Gli uomini d'affari astigiani: Politica e denaro tra Piemonte e l'Europa* (Turin, 1998).

²³ For the events at Asti, see BOWSKY, *Henry VII*, pp. 61-72; PAULER, *Könige*, pp. 56-63.

²⁴ *Acta Henrici VII romanorum imperatoris et monumenta quaedam alia suorum temporum historiam illustrantia* 1, ed. F. BONAINI (Florence, 1877; repr. Aalen, 1970), pp. 61-63, No. 48 (Asti, 1310 Nov. 15).

²⁵ *Constitutiones et acta publica imperatorum et regum* 4, ed. J. SCHWALM, 2 vols. (Hannover and Leipzig, 1906-1911: *MGH Const.* 4.4) 1, S. 415-417, No. 468 (Asti, 1310 Nov. 15).

On 18 November, the king started the reconciliation of the *De Castello* with the *Solarii* and to reorganize the commune. To be able to do so, the king was given extraordinary authority in yet another people's assembly, allowing him to intervene in the constitution and laws with the intention to reform the city according to his ideas.²⁶ According to the charter drawn up to record this meeting, first a Sienese lawyer accompanying Henry had given the reasons for the proceedings in a speech held in the king's presence. The people's assembly then had had to decide if the king was really to be given this authority, as it would imply his right to disregard all laws, statutes and communal and municipal authorities. The citizens assembled are said to have accepted the proposal, answering three times with cheers. The legal document drawn up that very day ends with Henry's *benigne* acceptance of the authority given to him.

The text of the so-called *Reformatio communis* of 23 November repeats the legal document drawn up five days before.²⁷ Again, the commune of Asti came together for a people's assembly, this time in the presence of bishop Balduin of Trier, who had come as the representative of Henry VII. The assembly was summoned to accept the king's peace sentence. First, a lawyer is said to have asked the people three times if they were interested in confirming the authoritative act of 18 November. This was confirmed unanimously. Next, the lawyer promulgated an arbitral award that intended to end the ongoing disputes in the city. After the promulgation of the judgement, the people's assembly was again asked for its approval, which they again expressed aloud and unanimously. With this (legal) act, King Henry had the communal officers replaced; he took possession of the communal documents to revise them in any way he deemed necessary.

The settlement of the disputes ended with two further meetings. On 5 December, the king assembled the new Podestà, some citizens of Asti and sixty members of the houses of the *De Castello* and the *Solarii* – i.e. the leaders of the formerly hostile parties – in his palace.²⁸ In their presence, he confirmed the

²⁶ *Acta*, ed. SCHWALM, pp. 419-420, No. 471 (Asti, 1310 Nov. 18). For the course of events, cf. the (dissenting) narration in: Guilielmo Ventura, *Memoriale de gestis civium astensium et plurium aliorum*, c. 58, in: *Gli antichi cronisti astesi Ogerio Alfieri, Guglielmo Ventura e Secondino Ventura secondo il testo dei Monumenta Historiae Patriae volume V, Scriptores tomo III, Torino 1848*, ed. N. FERRO et al. (Alessandria, 1990), pp. 187-244, at pp. 224-225.

²⁷ *Acta*, ed. SCHWALM, pp. 421-425, No. 472 (Asti, 1310 Nov. 23).

²⁸ *Ibid.*, pp. 427-429, No. 475 (Asti, 1310 Dec. 5).

regulations and arrangements which Amadeus of Savoy and Philip of Savoy-Achaia had proposed the previous year.²⁹

On 8 December, Henry had a final people's assembly summoned, this time in the refectory of the Franciscan monastery. There, he confirmed all rights and privileges of Asti.³⁰

The stages in the pacification of Asti can be compared to other initiatives intended to end communal disputes by means of arbitral judgements. There are a few differences, which are the result of Henry's claim to rights as *dominus naturalis* in northern Italy. Because he in fact managed to exercise these rights, the king was successful in forcing the parties to accept an agreement without the kind of detailed negotiations which proved necessary in other cases.³¹ For this reason the peace sentence's regulations were much less complex than in comparable cases.

Conclusion

These examples of peace treaties concluded in the Italian city communes show how, even in an area in which literacy had become commonplace, the effect of written charters remained intimately bound up with public interaction. Assemblies legitimized the peace treaties' negotiators; acts of symbolic communication are part and parcel of the negotiations, and without them no peace could be made. Trust in the charters recording public interaction was dependent on the legitimation by the communes' assemblies of their representatives. Without this legitimation, even the word of the king could not have prevailed. In these cases the charters might be trusted later – why write them otherwise – but in the eyes of most who had been present at the proceedings that trust would probably remain subject to people's assemblies, summoned correctly with all formal devices.

²⁹ *Codex Astensis qui de Malabayla communiter nuncupatur*, 4, *Appendix et indices locorum et hominum*, ed. Q. SELLA (Rome, 1880: *Atti della Reale Accademia dei Lincei*, 2. Ser. 7), pp. 70-74, No. 1041, the sentence (Asti, 1309 Dec. 18) at pp. 72-74.

³⁰ *Acta*, ed. SCHWALM, pp. 429-430, No. 476 (Asti, 1310 Dec. 8).

³¹ See, e.g. MALECZEK, "Frieden", pp. 319-320 for a peace treaty at Florence, celebrated in 1280. For this event, cf. U. MEIER, "Pax et tranquillitas: Friedensidee, Friedenswahrung und Staatsbildung im spätmittelalterlichen Florenz", in: *Träger und Instrumentarien des Friedens*, pp. 489-523, at pp. 497-505; C. DARTMANN, "Adventus ohne Stadtherr – 'Herrschereinzüge' in den italienischen Stadtkommunen", *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 86 (2006), pp. 64-94.

Waging War and Making Peace with Written Documents: The Kingdom of Poland against the Teutonic Knights (1411-1422)

ANNA ADAMSKA

A few years ago I had the opportunity to study the acts of the first fourteenth-century trial between the Kingdom of Poland and the Order of the Teutonic Knights.¹ This source, known as the protocol of the 'Warsaw trial' of 1339,² proved very useful in studying collective memory and historical tradition in the Polish late Middle Ages. The conclusion was, that the protocol of the trial shows how, around the middle of the fourteenth century, both historical tradition and the collective consciousness of Polish society were still informed mainly by orality. But that was not everything. One could also conclude that at the Warsaw trial two mentalities opposed one another. The Polish arguments, based on the beliefs of oral tradition, were confronted by the written strategies of their enemies. The Teutonic Knights used arguments comprehensible to contemporary western literates. To the Knights, who had been developing the then modern, centralised state structure, writing was the most

¹ A. ADAMSKA, "The Kingdom of Poland versus the Teutonic Knights: Oral traditions and literate behaviour in the later Middle Ages", in: *Oral History in the Middle Ages: The Spoken Word in Context*, ed. G. JARITZ and M. RICHTER (Krems and Budapest, 2001), pp. 67-77, with bibliographical references concerning the relationship between Poland and the Teutonic Knights in the fourteenth century. For a detailed presentation of the state of research on this subject in Polish, see: W. SIERADZAN, *Świadomość historyczna świadków w procesach polsko-krzyżackich w XIV-XV wieku* [The Historical Consciousness of the Witnesses at the Trials between Poland and the Order of the Teutonic Knights in the Fourteenth and Fifteenth Centuries] (Toruń, 1993).

² *Lites ac res gestae inter Polonos ordinemque Cruciferorum*, ed. I. ZAKRZEWSKI, 2nd edn. 3 vols. (Poznań, 1890-1935), 1, pp. 143-407.

important means of communication – and written documents were their most important legal arguments.³

The trial of 1339 was only a first episode in the military and political confrontation between the Kingdom of Poland and the Order of the Teutonic Knights. This conflict was to last some hundred and twenty years before it was finally settled in 1466. The course of events in the fifteenth century can be reconstructed; the sources allow us to follow changes in the types of argument produced by both sides, and the changing methods of their presentation. The growth in the use of written evidence by the Polish side is particularly clear.

In the view of modern Polish scholarship, the fifteenth century was extremely important for the formation of a literate mentality. In this period one observes a ‘great leap forward’ in the uses of writing in the domains of both pragmatic and mandarin literacy, and a consequent growth of trust in written documents as evidence in juridical matters.⁴ The use of written records as an instrument of political propaganda has attracted the attention of Polish scholars before. They mainly concentrated on spectacular episodes, such as the ‘Great War’ of 1409-1410, or the debates during the Council of Konstanz in 1414-1418.⁵ In this article, I would like to concentrate on the question, how writing was introduced as an efficacious political instrument. To this end two early fifteenth-century episodes will be discussed, taken from the long series of trials between Poland and the Teutonic Knights.

³ ADAMSKA, “The Kingdom of Poland”, *passim*. See also: H. Boockmann, “Der Deutsche Orden in der Kommunikation zwischen Nord und Süd”, in: *Kommunikation und Mobilität im Mittelalter: Begegnungen zwischen dem Süden und der Mitte Europas (11.-14. Jahrhundert)*, ed. S. DE RACHEWILTZ and J. RIEDMANN (Sigmaringen, 1995), pp. 179-190.

⁴ See, e.g. E. POTKOWSKI, “L’Écriture et société en Pologne du bas moyen âge”, *Acta Poloniae Historica* 39 (1979), pp. 47-100; ID., “Schrift und Politik im 15. Jahrhundert: Die Anfänge der politischen Publizistik in Polen”, *Frühmittelalterliche Studien* 28 (1994), pp. 355-373.

⁵ See, e.g. Z.H. NOWAK, “Dyplomacja polska w czasach Jadwigi i Jagiełły (1382-1423)” [Polish diplomacy in the times of Hedvig and Wladislas Jagiełło (1382-1434)], in: *Historia dyplomacji polskiej*, 1: *Polowa X w.-1572*, ed. M. BISKUP (Warszawa, 1982), pp. 328 ff.; H. BOOCKMANN, *Johannes Falkenberg, der Deutsche Orden und die polnische Politik* (Göttingen, 1975); T. WÜNSCH, *Konziliarismus und Polen: Personen, Politik und Programme aus Polen zur Verfassungsfrage der Kirche in der Zeit der mittelalterlichen Reformkonzilien* (Paderborn, 1998: *Konziliengeschichte, Reihe B: Untersuchungen*).

The Background

What was at issue in the conflict? The Order of the Teutonic Knights had been founded at the end of the twelfth century in the Holy Land. In 1228-1230 the Knights had come to the border area between Mazovia and Prussia. Invited by Polish princes, the Knights were meant to undertake christianizing missions in Prussia. During the thirteenth century they had built themselves a fully-fledged state, and at the beginning of the fourteenth century they had attacked Poland, occupying Pomerania, Cuyavia and organizing *reisen* (journeys) to the centre of the country. Poland, unable to counteract by force, looked towards the pope for justice. This led to the trial of Warsaw in 1339. Poland obtained only moral satisfaction, because Pomerania remained in the Order's hands.

At the end of the fourteenth century a new military conflict loomed, caused by the changing political situation in Central Europe. In the 1380s Poland effected a political union with the Grand Duchy of Lithuania, the last officially pagan country in Europe. The Grand Duke, Jogailła, was to become king of Poland (as Ladislas), and the Polish clergy were to undertake the christianization of Lithuania. This went against all the plans of the Teutonic Knights, who considered Lithuania their legitimate territory for expansion (and only incidentally the territory for their missionary work). And so the old conflict between Poland and the Order was complicated by polemics about the legality of the union and the efficacy of Polish evangelisation in Lithuania.

The most spectacular event of the conflict was obviously the 'Great War' of 1409-1410. In it, the Polish-Lithuanian army carried the day at the battle of Grunwald (Tannenberg), on 15 July 1410. However, because of the complicated political situation in the region, and because of the Great Schism in the Roman Church, the political results of the war were far less splendid than the military victory. From 1410 onwards, the Order's military drive towards Lithuania diminished somewhat, but the Kingdom of Poland did not manage to recover the lands lost in the fourteenth century.⁶

Poland tried again to start a political and diplomatic action. This is where our story starts.

⁶ For a more detailed description of the political events, see e.g. P. KNOLL, *The Rise of Polish Monarchy: Piast Poland in East Central Europe, 1320-1370* (Chicago and London, 1971); A. GIEYSZTOR, 'The Kingdom of Poland and the Grand Duchy of Lithuania', in: *The New Cambridge Medieval History, 7: c. 1415-c. 1500*, ed. C. ALLMAND (Cambridge, 1998), pp. 727-747.

The First bona fide Trial

In 1411 the Kingdom of Poland, not satisfied with the results of the 'Great War' against the Order, requested papal mediation. Unfortunately, pope John XXIII (1410-1415), far too busy with the Great Schism, refused to help. Sigismond of Luxembourg, however, king of Hungary (from 1387) and Holy Roman emperor (1410-1437), offered himself as mediator. He had an interest in preserving the political equilibrium in the region. The trial was the first of a series of so-called *bona fide* trials, in which a compromise rather than an outright victory was sought by the parties involved, who attended in good faith and submitted to arbiters from the region itself.⁷ The trial started at Buda, in Hungary, in the Summer of 1412. Quickly Sigismond became bored by all the legal details, and he delegated someone else, the lawyer Benedictus Macrai, to continue the investigation. In November 1412 Macrai went to the border area between the State of the Teutonic Knights and Lithuania, to examine testimonies offered by both sides.

The Polish arguments mainly concerned the claim on Pomerania and other lands, captured by the Order in the fourteenth century; the confirmation that Lithuania had in effect been christianized; and, finally, the acceptance of the opinion that the 'Great War' of 1409-1410 had been a just war (*bellum iustum*). There were matters as well, e.g. the claim by Lithuania on certain lands taken by the Teutonic Knights at the beginning of the fifteenth century.⁸

During the investigation, the Order was represented by the procurator Caspar Schuwenpflug and Poland by Andrew Laskarz, then dean of the chapter of Cracow cathedral. Andrew had studied law, first in Prague, and then in Padua. There, in 1405, he had obtained his *doctoratus decretorum* under the supervision of Francesco Zabarella and Prosdocius Conti, both of them famous canonists.⁹ Analyzing the protocol of the investigation of 1412-1413, carried

⁷ Concerning this type of political mediation, see: Z.H. NOWAK, *Międzynarodowe procesy polubowne jako narzędzie polityki Zygmunta Luksemburskiego w północnej i środkowo-wschodniej Europie, 1412-1424* [The International *bona fide* Trials as an Instrument of the Politics of Sigismond of Luxembourg in Northern and East-Central Europe] (Toruń, 1981). I am in the main following his analysis of events.

⁸ The protocol of the whole investigation was edited in: *Lites ac res gestae inter Polonos Ordinemque Cruciferorum*, ed. I. ZAKRZEWSKI, 2nd edn. (Poznań, 1892), 2, pp. 1-360. See also: A. WOJTKOWSKI, *Tezy i argumenty polskie w sporach terytorialnych z Krzyżakami* [The Polish Arguments in the Territorial Conflicts with the Teutonic Knights] (Olsztyn, 1968).

⁹ For biographical information and bibliographical references, see: K. OŻÓG, "Udział Andrzeja Łaskarzyca w sprawach i sporach polsko-krzyżackich do soboru w Konstancji" [The participation of Andrew Laskarz in trials and conflicts between Poland and the Teutonic Knights

out by a team of public notaries, one can see that Andrew was a real professional.

In the protocol, the changes in the arguments proffered by the Polish argumentation since 1339 are striking. At the Warsaw trial of 1339, the principal source of historical consciousness had been public knowledge (*publica fama et vox*), used as an important argument for the authenticity of knowledge. Written record had only a marginal place in the argumentation.¹⁰ Now, in 1412-1413, the Poles were able not only to use written documentation in their argumentation, but they also questioned the value of the written record presented by their adversaries.

In January 1413, Benedictus Macrai was investigating the appurtenance of the castle Wielona in Zemaitja. Schuwenpflug, the procurator of the Teutonic Knights, showed the transumpt (copies) of the sixteen privileges which the Order had obtained in the past, from popes and emperors,¹¹ and the charters offered by Mindaguas, the only king of Lithuania (who had died in 1263). The oldest of these privileges, predating as they did the building of the castle, did not concern the matter at issue directly. They were used to justify the presence of the Order on the Lithuanian border. The presentation of such written evidence inspired a noteworthy reaction from the Polish side. The procurator Andrew first demanded, that the judge should check the authenticity of these transumpt:

That same hour the lord judge was requested by the lord procurator of the king to examine whether the letters, instruments and other [documents] which had been produced by the procurator of the Order had not in any part been falsified.¹²

The next day he questioned the value as testimony of a *transsumptum* as such,

until the Council of Konstanz], in: *Polska i jej sąsiedzi w późnym średniowieczu*, ed. K. OŻÓG and S. SZCZUR (Kraków, 2000), pp. 159-186; J. KRZYŻANIAKOWA, "Andrzej Łaskarz – 'patron' polskich koncyljarystów" [Andrew Łaskarz – the 'patron' of the Polish conciliarists], in: *Ludzie, Kościół, Wierzenia: Studia z dziejów kultury i społeczeństwa Europy Środkowej (średniowiecze – wczesna epoka nowożytna)*, ed. W. IWAŃCZAK and S.K. KUCZYŃSKI (Warszawa, 2001), pp. 265-278.

¹⁰ ADAMSKA, "The Kingdom of Poland", pp. 72 ff.

¹¹ Popes Clemens IV (1265-1268), Alexander IV (1254-1261) and Innocent IV (1243-1254) and emperors Frederic II (emperor 1220-1250), Louis of Bavaria (1328-1347) and Charles IV (1355-1378).

¹² *Lites*, 2, p. 135: "Item eadem hora dominus iudex requisitus est per procuratorem domini regis, ut examinaret litteras, instrumenta et alia per procuratorem Ordinis producta, an illa sint in aliqua parte falsificata ...".

because transumps ought not to be given credence, and ought not to be admitted as witnesses, unless the originals could be produced.¹³

Then Benedictus Macrai authorised the Polish lawyers to investigate the authenticity and validity of the Teutonic evidence, giving them 24 days to do so. Because of procedural complications, Andrew Laskarz presented his report only in April 1413. He rejected all the transumps presented by the Teutonic Knights. The papal charters and the privilege of Frederic II for the Order (dated 1245) were rejected because of their contents, i.e. the idea that the Teutonic Knights had obtained lands and privileges to undertake a Christian mission. As their behaviour had been brutal, barbarian and unchristian, all these privileges had no value at all.¹⁴

More important is the criticism of the charters of the Lithuanian king Mindaguas. Andrew, the Polish procurator, provided nothing less than a professional analysis of the authenticity of documents, done according to 'modern' criteria of diplomatic:

As for the alleged letters given by Mindaguas, the king of Lithuania, four of which are said to have been offered as transumps, it is answered that they are fabricated and forgeries, because a counterfeit seal has been affixed to them, because there are to be found no letters from the lands of Lithuania, dating from the period in which the said alleged letters of donation are said to have been written, which are either similar or are sealed with a similar seal.¹⁵

The investigation of the conflict between the Polish-Lithuanian Commonwealth and the Teutonic Knights dragged on. In the Spring of 1413, Benedictus Macrai examined the border between the Polish lands of Dobrzyń, Cuyavia and Chełmno, and the lands belonging to the Order. This border had been in dispute since 1339. Andrew Laskarz presented a dossier of arguments for each part of the border, confirming Polish rights. In these dossiers written evidence was included, i.e. some charters, and all the *notitiae* contained the *libri iudiciorum*

¹³ *Lites*, 2, p. 136: "*quod non credetur transsumptis, nec testes admittantur, nisi originalia producantur*".

¹⁴ *Lites*, 2, p. 296.

¹⁵ *Lites*, 2, p. 297: "*Ad literas vero Mindowe regis Lithwanie pretensas, sub transumpto oblatas que dicuntur esse quatuor, respondetur quod sunt conficte et false, ex eo, quod eisdem sigillum adulterium est appensum et falso fabricatum, ex eo, quia nulle littere de tempore quo dicte littere pretense donacionis dicuntur esse scripte, in partibus Litwanie similes sub simili sigillo sigillate reperiuntur*".

terrestrium produced by the land tribunals they had been possible to find.¹⁶ These tribunals (*iudicia terrestria*) were meant to register all civil transactions concerning landed property.¹⁷ This attempt to use written arguments whenever they were available, to the detriment of oral testimony, is highly remarkable. Usually, cases of border disputes were decided on arguments from oral tradition.

During the investigation, Andrew once may have even used a map to show the southern border of Pomerania: “the king’s procurator obtained some *cartha* which contained the borders of kingdom of Poland around those parts”.¹⁸ The word used, *carta* (*cartha*), has been interpreted as ‘map’ by Polish scholars.¹⁹ There are, in fact, other instances of the use of *carta* with the meaning ‘map’. However, “*cartam continentem*” might equally be translated as “a document containing a description of”. Alas, there is no trace of either the map or the document Andrew may have referred to.

The sentence pronounced by Benedictus Macrai (in June 1413) did not settle the conflict between the Kingdom of Poland and the Teutonic Knights. It declared merely a *mala voluntas* by the Knights to respect earlier sentences.²⁰

The Second bona fide Trial

The second episode concerns the next stage of the conflict. The first mediation of Sigismond of Luxembourg and his legal experts had come to nothing. An attempt to ask the Council of Konstanz (1414-1418) to arbitrate had no real effects either.²¹ In 1420, with a new military confrontation on the horizon, it was again Sigismond of Luxembourg who offered to mediate. And so a new trial started, known as the ‘Trial of Wrocław’ (Breslau). A large team of Polish jurists, among whom Andrew Laskarz, who this time took part as bishop of Poznań, presented Sigismond with a voluminous dossier. It described the whole conflict from its very beginning. Fifty years later, this dossier was described by the chronicler (and clerk of the chancery of the bishop of Cracow) Jan Długosz (1415-1480). The king of Poland delegated his

¹⁶ *Lites*, 2, pp. 209 ff.

¹⁷ Cf. *infra*, n. 35.

¹⁸ *Lites*, 2, p. 310: “*et obtulit procurator regis quandam cartham continentem grenicies regni Poloniae circa illam partem*”.

¹⁹ See OŻÓG, “Udział Andrzeja”, p. 177.

²⁰ *Lites*, 2, pp. 346 ff.

²¹ BOOCKMANN, *Johannes Falkenberg*, pp. 216 ff.

envoys and ambassadors ... to obtain letters, rights, privileges and muniments and other items and a summary petition based on which a just judgment might be pronounced. ... The very next day ... the ambassadors of the king ... had brought with them the individual rights which they had been asked to bring forward, that is to say a big and enlarged register in parchment (*regestrum magnum et extensum*), protocolled and notarized (*instrumentatum et tabellionatum*) in single gatherings of six leaves, of the trial held before the judges of the Apostolic See more than 80 years ago in Warsaw.²²

The “*regestrum magnum*” mentioned by Długosz was the protocol of the trial of Warsaw from 1339, the first commitment to writing of oral traditions about the relationship between Poland and the Order. Now this written record, which was considered very trustworthy and had great prestige, gained a new lease of life. It was to be copied often in the fifteenth century.²³

But let us return to the Wrocław trial. Polish lawyers had presented their arguments in a voluminous register to Sigismond, and he promised to examine the texts with his juridical experts. The Polish protests were based on the same argumentation as in 1412: “It was countered by Lyaskar, the bishop of Poznań, that one ought not to stand by transumps, unless the originals could be seen and until it appeared that they were true”.²⁴ Somewhat surprisingly, Sigismond decided in favour of the Teutonic Knights, using as a pretext the transumps presented to him as counter-arguments by the Order.

Unfortunately for the Poles, Sigismond, then looking for the support of the Order in his bid for the Bohemian crown, put aside all details of juridical procedure. His sentence confirmed the Teutonic Knights in all their possessions.²⁵

²² Jan Długosz, *Annales seu Cronicae Incliti Regni Poloniae, lib. XI: 1413-1430*, ed. J. WYROZUMSKI *et al.* (Warszawa, 2000), pp. 111-112: “*nuntios et ambaciatores suos ... ad producendum litteras, iura, privilegia et munimenta ceterosque articulos et petitionem summariam, ex quibus sententia iusta ferenda foret Altera die ... ambasciatores regis ... retulisse secum singula iura per eum alleganda, videlicet regestrum magnum et extensum in pergameni per singulos sexternos instrumentatum et tabellionatum processus habiti coram iudicibus a Sede apostolica ante annos octuaginta in Varsovia*”.

²³ J. WIESIOŁOWSKI, *Kolekcje historyczne w Polsce średniowiecznej XIV-XV wieku* [Collections of Historical Texts in Medieval Poland in the Fourteenth and Fifteenth Centuries] (Wrocław, Warszawa and Kraków, 1967), p. 123.

²⁴ J. Długosz, *Annales, lib. XI*, p. 113: “*per Lyaskarium episcopum Posnaniensem, opposito quod non sit transumptis standum, donec videantur originalia et appareat esse vera*”.

²⁵ See NOWAK, *Międzynarodowe procesy*, pp. 81 ff.

Trust in the Written Word and its Limits

We may now leave the analysis of the conflict between the Kingdom of Poland and the Teutonic Knights. In the context that interests us in this article, it is secondary whether there was justice in the political demands of the Knights. More interesting is another question. How had Polish diplomacy hoped to use written records as trustworthy arguments in a political struggle.

It seems that in both episodes under discussion, two aspects of trust in writing can be distinguished. Both episodes testify to a familiarity with written records, and to the ability, at the beginning of the fifteenth century, to use them as juridical instruments that were as efficacious as the testimony of living witnesses.

First, of course, there is the fact of the use of written evidence itself. One might say that, in comparison with 1339, Polish diplomacy had learnt to adapt its strategy to the literate standards of the enemy. Since the beginning of the conflict in the fourteenth century, the Teutonic Knights had used charters to justify their rights and possessions. During the trial in 1339, a witness remembered having seen several privileges for the Order, which the Master of the Order had once shown him.²⁶ In 1419, almost eighty years later, just before the trial of Wrocław, a campaign took place in Marienburg of making transsumpts of those charters which the Order meant to be presented. They produced twenty-nine transsumpts of privileges for the Teutonic Knights from the thirteenth century onwards.²⁷

In 1413 Poland had tried to establish, for the first time in the history of the kingdom's international activities, a similar type of dossier. Andrew, the procurator, undertook a wide-ranging search of the archives: in the royal treasury at Cracow, in archives of chapters (at Gniezno and in Włocławek) and monasteries (Pelplin). He also investigated private collections of documents. The problem was that there was not much to find.²⁸ Andrew not only failed to find thirteenth-century charters, he also did not manage to find the extremely important acts of the peace treaty between Poland and the Order concluded in 1343, which had disappeared from the Crown archives under unknown circum-

²⁶ ADAMSKA, "The Kingdom of Poland", p. 76.

²⁷ See: S. SZCZUR, *Traktaty międzynarodowe Polski piastowskiej* [The International Treaties of Poland under the Piast Dynasty] (Kraków, 1990), p. 133.

²⁸ The oldest charters Andrew was able to present went back to the beginning of the fourteenth century. See: *Lites*, 2, pp. 248, 264-267, 276-278.

stances.²⁹ Polish medievalists are not able to explain this fact. It is not known precisely how written records were kept in the Polish royal chancery in the latter half of the fourteenth century. This may suggest a lack of understanding or a lack of interest in the preservation of written records. However, different explanations are also possible. The political instability of central power in the first half of the fourteenth century may have resulted in documents getting lost. The practice that chancellors upon leaving office took charters with them as their private property may also have resulted in losses.³⁰ Be this as it may, Andrew's intensive search for charters testifies to a consciousness of the written word's importance in political strategy.

There is also a second aspect of trust in writing worth mentioning. The protocols and descriptions of the trials of 1413 and 1420 make clear that the Polish procurators at these trials attempted to refuse any juridical value to the written evidence presented by their adversaries. The argument that these documents could not be used as testimony, because they were merely transumpta and nothing more, was taken from canon law. They also showed themselves capable of proving forgeries through their analysis of seals and writing.³¹ In 1427 the royal chancery had to examine several documents which were a hundred years old. The doubts about their authenticity were caused, among other

²⁹ J. KARWASIŃSKA, "Z dziejów Archiwum Koronnego: Dokumenty krzyżackie" [From the history of the Crown archives: Charters of the Teutonic Knights], in: EAD., *Wybór pism: Źródła archiwalne* (Warszawa, 1998), p. 111.

³⁰ KARWASIŃSKA, "Z dziejów", pp. 117-118. Some authors assume that the organization of the archives of Polish Crown started only in the first half of the fifteenth century. See: J. KRZYŻANIAKOWA, "Kancelaria królewska Władysława Jagiełły jako ośrodek kultury historycznej" [The royal chancery of Ladislas Jagiellon as a centre of historical culture], *Studia Źródłoznawcze* 18 (1973), p. 69. I. SUŁKOWSKA-KURASIOWA, *Dokumenty królewskie i ich funkcja w państwie polskim za Andegawenów i pierwszych Jagiellonów, 1370-1444* [Royal Charters and their Function in the Polish State under the Anjou Dynasty and under the First Jagiellons, 1370-1444] (Warszawa, 1977), p. 132.

³¹ Little is known of attempts to check the authenticity of charters in the Polish ecclesiastical and secular chanceries before the second half of the thirteenth century. See: S. MIKUCCI, "Badanie autentyczności dokumentu w praktyce kancelarii monarszej i sądów polskich w wiekach średnich" [The examination of the authenticity of charters in the practice of the royal chancery and of the Polish tribunals in the Middle Ages], in: *Rozprawy Akademii Umiejętności, Wydział Filozoficzno-Historyczny* 69 (1934) pp. 258-359; R. ŻERELIK, "Badanie autentyczności dokumentów w kancelarii biskupów wrocławskich w XIII wieku" [The examination of the authenticity of charters in the chancery of the bishops of Wrocław in the thirteenth century], *Acta Universitatis Wratislaviensis: Historia* 72 (1991), pp. 111-119; A. PREISSNER, "Problem badania autentyczności dokumentu w kancelarii Władysława Łokietka" [The examination of the authenticity of charters in the chancery of Ladislas the Short], *Małopolskie Studia Historyczne* 10 (1967), pp. 73-93.

things, by their very bad Latin. After detailed examination by the royal vice-chancellor, the bishop of Cracow and some experts of the University, it was decided that the charters were forgeries. Interestingly, in the sentence the documents have been corrected and rewritten, to show what such texts ought to have looked like - and to enable forgeries to be detected in the future.³²

As is well known, the standards for similar procedures, resembling 'modern' diplomatic criticism, were established by the papal chancery at the beginning of the thirteenth century.³³ They were summarized in the dictum that a charter ought to be "*non cancellata nec abolita nec in aliqua sui parte viciata*".³⁴ Nevertheless, it might be fruitful to look at the development of the examination of authenticity evidenced in the Polish reception of canon law in a larger perspective. When discussing medieval trust in writing, any control of *vera et falsa scripta* must be seen as an expression of *distrust* in writing. This distrust is very specific. It is an integral part of a literate mentality that has already been formed, a next step on the long road of the mental and juridical acceptance of written record as a trustworthy instrument of memorisation. In the fifteenth century, there seems no more doubt as to the answer to the question: Is a written record really as good as the oral testimony of a trustworthy witness? The answer is simply: yes. The primary mental operation has taken place. The question now has become: How does a written record have to present itself, so that one may judge it to be trustworthy? The answer contemporaries will give to this question is not yet clear. Paradoxically, the view of the growing superiority of the written word implied by the answer to the first question (because written records are now in and of themselves considered as more trustworthy as oral testimony) is challenged by the wavering answers given to this second question.

The professional astuteness of the Polish lawyers examining charters in the first half of the fifteenth century is not the only indication that a critical literate mentality had developed in Polish society. This was not only a matter of the

³² For a detailed description of the procedure, see: SUŁKOWSKA-KURASIOWA, *Dokumenty królewskie*, p. 129.

³³ See U. KLEINE, "*Litterae, cartae, codices, petentes und notarii: Aspekte der Vertrauenswürdigkeit von Papsturkunden im Pontifikat Innozenz' III. (1198-1216)*", in this volume.

³⁴ A. POTTHAST, *Regesta Pontificum Romanorum*, 2 vols. (Berlin, 1874-1875), 1, p. 117. Discussing the example of thirteenth-century England, Michael Clanchy showed that chancery practice could be very different from these juridical prescriptions. See: M.T. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2nd edn. (Oxford and Cambridge, MA, 1993), pp. 321 ff.

‘manipulations’ by fully literate clerks, but also of the attitudes of relatively large social groups, meeting before the land tribunals (*iudicia terrestria*). According to the sources that have survived, at the beginning of the fifteenth century the authenticity of charters presented before those tribunals by one’s adversary was often questioned. In 1418, because the official examination of doubtful records was expensive in time and money, in Mazovia financial penalties were incurred by those who made such accusations without reason.³⁵

Conclusion

Let us return to the conflict between the Kingdom of Poland and the Teutonic Knights. I have presented only two episodes, to show the new Polish strategy of including writing among political arguments. This strategy was developed by a very specific group of people, i.e. by the members of the royal chancery. At the beginning of the fifteenth century, this office became a dynamic centre of administration and culture, a real centre of memory and power.³⁶ Officials working in the Polish royal chancery, such as Andrew Laskarz, had usually had a legal education, first in Prague, and then in Italy. They became a group of real professionals of the written word, well educated, familiar with both canon law and Roman law.³⁷ However, their strategy to use

³⁵ See: S. KĘTRZYŃSKI, *Zarys nauki o dokumencie polskim wieków średnich* [Precis of Medieval Polish diplomatics] (Warszawa, 1934; only one vol. was ever published), pp. 220-221. On the other hand, Tomasz Jurek recently stressed a remarkable paradox of late medieval Polish law: in the procedure of examining private charters before the land tribunals, the testimony of a living person still remained instrumental in confirming their authenticity. A rule from 1519 decided that in conflicts about frontiers of properties, tribunals have to use the declaration of witnesses, because “*multae litterae et privilegia reperiri solent, partim abusa, partim etiam incerta*” (I am quoting after T. JUREK, “Die Rechtskraft von Urkunden im mittelalterlichen Polen”, in: *The Development of Literate Mentalities in East Central Europe*, ed. A. ADAMSKA and M. MOSTERT (Turnhout, 2004: *Utrecht Studies in Medieval Literacy* 9), p. 82.

³⁶ I am using the expression of the French scholar Claude Gauvard, who recently called a late medieval chancery a “*lieu de mémoire, lieu de pouvoir*”. See: C. GAUVARD, “Conclusion”, in: *Écrit et pouvoir dans les chancelleries médiévales: espace français, espace anglais*, ed. K. FIANU and D.J. GUTH (Louvain-la-Neuve, 1997), p. 335.

³⁷ See: SUŁKOWSKA-KURASIOWA, *Dokumenty królewskie*, pp. 138 ff.; J. KRZYŻANIAKOWA, *Kancelaria królewska Władysława Jagielly: Studium z dziejów kultury politycznej Polski w XV wieku* [The Royal Chancery of Ladislas Jagellon: A Study of the History of Political Culture in Poland in the Fifteenth Century], 2 vols. (Poznań, 1972-1979), 1, pp. 146 ff. K. OŻÓG, *Uczni w monarchii Jadwigi Andegaweńskiej I Władysława Jagielly (1384-1434)* [Intellectuals in the Reigns of Hedwig of Anjou and Ladislas Jagiello (1384-1434)] (Kraków, 2004).

documents as juridical evidence came up against a surprising obstacle: the physical lack of charters to be used which resulted from bad preservation and historical circumstances. This is why, in the next period of the diplomatic struggle against the Order of the Teutonic Knights, Polish diplomacy went back to the older methods. In 1422, again before a papal tribunal, Polish witnesses came to testify by the word of mouth to the just Polish demands. How had the memory of these witnesses been formed? By written record or by oral tradition? And did they trust – or distrust – the written word?

Point of Reference: Trust and the Function of Written Agreements in a Late Medieval Town¹

FRANZ-JOSEF ARLINGHAUS

When I attempted once to negotiate the price of chocolate with a saleslady, I found that instead of arguing, she repeatedly pointed to the price tag on which the price was clearly written.

N. LUHMANN, *Social Systems* (Stanford, Cal., 1995), p. 428, n. 53.

Abstract

This article concentrates on fourteenth- and fifteenth-century uses of writing in an urban environment. Side glances on the use of writing in the earlier centuries of the Middle Ages, and also on its use in present times, will also prove necessary. The first thesis is that not the content, but the possibility to refer to a written document may be seen as the core element of trust in writing. Starting from there, a central problem of medieval writing becomes apparent: the status of written texts. Since referring to something supposes that this something exists in its own right, if a document is to serve as a point of reference, it needs to have an ‘autonomous’ status attributed to it. In contrast to

¹ This article is in large part based on my “Rituelle und referentielle Verwendung von Schrift: Textgebrauch in der spätmittelalterlichen Stadt”, *Frühmittelalterliche Studien* 38 (2004), pp. 393-413. Some aspects, such as ‘performance’ and ‘trust’ have received more attention here.

present times, where writing *per se* is considered ‘independent’; during the late Middle Ages, however, the status of writing was ambiguous. In taking up Jan Assmann’s idea of ‘canonization’, in my second thesis I suggest that late medieval texts had to be ‘made’ independent to function as reference points. The analysis of the Prologue of the Cologne Statutes and of the so-called *Verbundbrief* will show how this was done. Examining a conflict within the Cologne city council, we will see that texts primarily served as points of reference, rather than to support the content of an argument put forward. Finally, we will see what late medieval society may have gained by using writing in this way. It is suggested that in establishing independent texts as points of reference, late medieval society may have found a new common ground on which to operate.

1. Historical Framework

With about 50,000 inhabitants, fifteenth-century Cologne was probably the biggest city in the German-speaking world. After the battle of Worringen in 1288, Cologne became *de facto* an almost independent city, forcing out the archbishop of Cologne, *de jure* still the lord of the city. His influence had been reduced to appointing the jury and judge of the city’s High Court; in every-day practice, this court was controlled by the city council. However, the archbishops did not give up attempts to regain power over Cologne until the end of the eighteenth century.²

Just as many other German cities,³ Cologne saw serious internal conflicts in the second half of the fourteenth and the early years of the fifteenth century. After an uprising in 1370/71, a revolt in 1396 led to important changes in the town’s political system. Before the revolt, only certain families could nominate their members to the city council. Now, the council was elected by the so-called

² For a quick overview of the history of Cologne see *Texte zur Kölner Verfassungsgeschichte*, ed. B. DREHER (Köln, 1988: *Veröffentlichungen des Kölnischen Stadtmuseums* 6), pp. 9 ff. Dreher also gives a number of texts which are important for an understanding of the political situation of the city (for instance, the *Verbundbrief* discussed below).

³ See, for instance, I. BAUMGÄRTNER, “Niederhessen in der Krise? Städtischer Aufruhr im landgräflichen Kassel und im erzbischöflichen Hofgeismar”, in: *Nordhessen im Mittelalter: Probleme von Identität und überregionaler Integration*, ed. I. BAUMGÄRTNER *et al.* (Marburg, 2001), pp. 137 ff. A series of revolts is analyzed by E. PITZ, *Bürgerreinigung und Städteeinung: Studien zur Verfassungsgeschichte der Hansestädte und der deutschen Hanse* (Köln etc., 2001: *Quellen und Darstellungen zur hansischen Geschichte*, N.F. 52), pp. 65 ff.

twenty-two *Gaffeln*, guild-like associations in which every citizen was committed to becoming a member.⁴

During the fifteenth century, the continuous tensions of the second half of the fourteenth century abated somewhat, but troubles persisted between the city council, the jury of the High Court appointed by the archbishop, and even the archbishop himself. Soon, the new city council behaved as the old one had done, and the riots of 1481 and 1513 show that council and citizens (*Rat* and *Gemeinde*) did not always live in harmony.⁵

2. Placing Texts in the Discourses of the City

Cologne produced two important constitution-like texts during the late Middle Ages: The so-called *Verbundbrief* of 1396 and the Statutes of 1437. One may see the *Verbundbrief* as a document of unity after the troubles of 1396, a kind of Magna Carta or constitution. All twenty-two *Gaffeln* attached their seals to this text, written on parchment. It contains short but decisive regulations.⁶ In contrast, the Statutes of 1437 are a text of considerable length: some 75 pages in Walther Stein's edition.⁷ The Statutes are of special interest here,

⁴ See W. HERBORN, *Die politische Führungsschicht der Stadt Köln im Spätmittelalter* (Bonn, 1977: *Rheinisches Archiv* 100); K. MILITZER, *Ursachen und Folgen der innerstädtischen Auseinandersetzungen in Köln in der zweiten Hälfte des 14. Jahrhunderts* (Köln, 1980: *Veröffentlichungen des Kölnischen Geschichtsvereins* 36); and G. SCHWERHOFF, "Apud populum potestas? Rats Herrschaft und korporative Partizipation im spätmittelalterlichen Köln", in: *Stadtregiment und Bürgerfreiheit: Handlungsspielräume in deutschen und italienischen Städten des Späten Mittelalters und der Frühen Neuzeit*, ed. K. SCHREINER et al. (Göttingen, 1994: *Bürgertum: Beiträge zur europäischen Gesellschaftsgeschichte* 7), pp. 188 ff.

⁵ For the bibliography, see *supra*, n. 3, and G. SCHWERHOFF, "Die goldene Freiheit der Bürger: Zu den Bedeutungsebenen eines Grundwertes in der Stadtkölnischen Geschichte (13.-17. Jahrhundert)", in: *Stadtregiment und Bürgerfreiheit*, p. 94; B. DREHER, "Die Beschwörung der Freiheit: Gemeinde versus Rat 1481/82, 1512/13, 1525, 1680-86", in: *Der Name der Freiheit 1288-1988: Aspekte Kölner Geschichte von Worringen bis heute*, ed. W. SCHÄFKE (Köln, 1988), pp. 445 ff.

⁶ M. HUISKES, "Kölns Verfassung für 400 Jahre: Der Verbundbrief vom 14. September 1396", in: *Quellen zur Geschichte der Stadt Köln*, 2, *Spätes Mittelalter und Frühe Neuzeit (1396-1794)*, ed. J. DEETERS et al. (Köln, 1996), pp. 1 ff., with translation in modern German and bibliography.

⁷ W. STEIN, *Akten zur Geschichte der Verfassung und Verwaltung der Stadt Köln im 14. und 15. Jahrhundert*, 2 vols. (Bonn, 1893: *Publikationen der Gesellschaft für Rheinische Geschichtskunde* 10), 1, Nr. 331, pp. 631 ff.

because they themselves give detailed information about who is responsible for the text, and how.

A large part of the Statutes consists of regulations which had already been written down in different protocol books in the fourteenth and early fifteenth centuries; only a few statutes are new, or at least they could not be found elsewhere. After a prologue, we find a whole range of different kinds of information, from an explanation of the kind of honours to be offered to the king or the archbishop when they visit Cologne to the amounts the city courts are allowed to charge for the different cases brought before them.

These Statutes are considered to be one of the most important texts of the kind written in Germany during our period.⁸ However, I have chosen them mainly because of their Prologue.

Prologue of the Cologne Statutes, 15 June 1437⁹

*Wir burgermeistere ind raet der stat Coelne doin kunt zo ewiger gedechtenisse ...
 Wilche gesetze ind ordinancie ind alle punten daeinne begriffen wir mit guder
 moissen gesien ind gehoirt ind unss [the 'institutions' involved:] mit allen reeden
 ind vierindviertzigen, vort mit greven ind scheffenen des hoen gerichtz ... gemeynli-
 5 chen darup foider beraeden ind gutlichen undersprochen hain, ind sijn alle
 sementlich ind eyndrechtlich sonder yemans wiederachten ... overkomen ind eiyns
 worden dieser punten hernae beschrieven, [the period of validity:] die wir ouch zo
 ewigen dagen vaste, stiede ind unverbruchlich bynnen unser stat ind gebiede
 gehalden haven willen ... [no changes to the text are allowed:] Ind so wanne achter
 10 dieser zijt voran eyne nūwe raet unser steide ingaende wirt, so sall hey diese
 naegeschrieven gesetze ind ordinancie ... bij synen eyden ind truwen egrieffen
 stiede ind fast zo halden ind die nyet zo kurten off zo lengen noch yed anders darin
 zo brechen off zo dragen zo lassen in eyner wijs, [for changes, all institutions
 have to be asked:] id en geschie dan mit eyne gantzen volkomenen gesprieche ind
 15 verdrage aller reede ind der vierindviertzigen, vort greven ind scheffenen des hoen
 gerichtz ... [scribes watch over the Statutes:] Ouch so soilen unser steide
 prothonotarius ind secretarii, die in unser raetzkameren bij eyne raede zertzyt*

⁸ See U. HEPPEKAUSEN, *Die Kölner Statuten von 1437: Ursachen, Ausgestaltung, Wirkung* (Köln, Weimar and Wien, 1999: *Rechtsgeschichtliche Schriften* 12), pp. 255 ff. In his thesis, Heppekausen gives an excellent interpretation of the juridical aspects of the Statutes.

⁹ STEIN, *Akten* 1, Nr. 331, pp. 631 ff. Three different prologues in different copies have come down to us. I am analyzing what the editor called *Vorrede I* (Prologue I), because this is most likely the prologue of the manuscript that was used by the city council (with numerous notes of the city scribes in the margin and other signs of intensive use). For a detailed description, see STEIN, *Akten* 1, pp. XCIII ff.

20 *unser steide nu synt ind naemails komende werden, zen heyligen sweren, off sij zu
eyncher zyt in raetzstat up eynche sachen spreken hoerten, die wieder diese nage-
schrievenen unse gesetze ind ordinancie weren, dat sij dan zerstunt den reat zer-
tziht, die darup sprechende wurde, daeinne underwijsen ind dieser selver unser
gesetze ind ordinancien ermanen soilen, up dat die vesticlicher ind gedechtnisse
gehalden werden.*

The first of the few lines quoted here – the whole Prologue is over two pages long – name the persons and institutions that passed, or rather agreed to, the Statutes: the two majors of the city, the city council (line 1), the council of the Forty-Four (the representatives of the citizens), and the jury of the High Court with their chief judge (*Greve*, lines 3-4). This is a way of legitimising the Statutes which goes far beyond what would have been necessary in a juridical sense. Together, these institutions wanted the Statutes to be valid almost forever (line 8); they should might not be changed (lines 9 ff.). If any changes had to be made nevertheless, all groups mentioned had to assemble again to give their assent (lines 14 ff.). As part of their oath of office, the scribes of the city had to swear to take care that the city council did not propose matters contrary to the Statutes (lines 16 ff.). If the scribes were only to hear of a councillor talking on such matters (line 19: “*in raetzstat up eynche sachen spreken hoerten*”), they should warn him to obey the rules. In the margin of the Statutes’ copy kept in the town hall, we read “*nota de secretarijs*”, written by Johannes Bruwers, one of the two most important scribes working for the city during the first half of the fifteenth century.¹⁰

Almost every prologue of a medieval text tells us something about how the text came into being. But this one is far more explicit than most of the prologues to statutes written in Germany. What is more, it offers some interesting details about the status and role of the Statutes in the (mostly oral) communication system within the city council.

¹⁰ STEIN, *Akten* 1, Nr. 331, p. 633, note h.

3. *Trust in An Ink-on-Paper Fixed Content? Trust in Interpretation of the Law by the Scribes?*

The Content of the Statutes

What was it that made it so attractive to collate all preexisting laws and regulations in writing? It is, of course, quite useful, for instance, for juries and judges, to have all relevant regulations put together in one book.¹¹ However, important areas of city law are not dealt with in the Statutes. There are, for instance, only few regulations on mortgages and debt.¹² How to lodge an appeal from the city court to the jury of the bishop's High Court could be looked up in several protocol books, but not in these Statutes. There was a political background to this,¹³ but it nevertheless shows that one still had to rely on knowing what was usually done (and what was known and remembered by the people), rather than on consulting this book.¹⁴

As with so many other medieval documents, the content of the text is incomplete about important matters, and sometimes it is not clear what is really meant. And these ambivalent sections of the Statutes are precisely those most likely to become a bone of contention between different groups within the city. The conclusion to be drawn is that, although there was a certain trust in the content of the Statutes, their main function was probably not that of offering a compendium-like text.¹⁵

¹¹ On the form and structure of statutes – although concentrating on Italian examples – see: *Statutencodices des 13. Jahrhunderts als Zeugen pragmatischer Schriftlichkeit. Die Handschriften von Como, Lodi, Novara, Pavia und Voghera*, ed. H. KELLER et al. (München, 1991: *Münstersche Mittelalter-Schriften* 64).

¹² HEPPEKAUSEN, *Die Kölner Statuten von 1437*, pp. 255-256.

¹³ STEIN, *Akten* 1, pp. XCIV-XCV; HEPPEKAUSEN, *Die Kölner Statuten von 1437*, pp. 36 ff.

¹⁴ HEPPEKAUSEN, *Die Kölner Statuten von 1437*, pp. 255-256.

¹⁵ Comparing a number of similar writings of this kind from various cities, Arndt Mihm states that none could claim to be sufficiently complete and systematic, or close enough to the problems they should help to solve. He concludes that for the maintenance of public order, the leaders of the (German) towns considered 'oral norms', known by everyone, as sufficient ("die städtische Führung [empfand] für die Aufrechterhaltung der öffentlichen Ordnung ... die Praxis mündlicher Rechtsetzung als ausreichend"). For internal use, ephemeral recordings (protocol books) were sufficient for their needs (A. MIHM, "Vom Dingprotokoll zum Zwölftafelgesetz: Verschriftlichungsstufen städtischer Rechtstradition", in: *Schriftlichkeit und Lebenspraxis: Erfassen, Bewahren, Verändern: Akten des Internationalen Kolloquiums (8.-10. Juni 1995)*, ed. H. KELLER et al., (München, 1999: *Münstersche Mittelalter-Schriften* 76), pp. 44 ff., quotation at p. 47).

The Role of the Scribes and the Role of the City Council

As mentioned above, not the city council, but the *protonotarius* (the main city scribe) and his *secretarii* (other city scribes working in his office) were obliged to say whether new laws discussed in the council, or even suggestions made by a councillor, were in accordance with the Statutes. At first glance it seems that pragmatic reasons were responsible for this expedient: the scribes had the text ready to hand, and they were familiar with its content.¹⁶ However, it is quite astonishing that the council did not give the task of interpreting this important text to a councillor. The two so-called *Ratsmeister*, the councillors chairing city council meetings, would have been perfect for taking on this task. During the fourteenth century, they had had to take care that oaths sworn, written down in so-called 'oath books', were observed by the members of the council.¹⁷

The risk that the scribes would interpret the text in a manner unwelcome to the council seems negligible. Would they bite the hand that fed them? On the other hand, one might well imagine a situation in which the council were divided into factions, and the interpretation of the scribes might tip the scales. The city council therefore ran a certain risk, albeit a small one, in leaving the interpretation of the Statutes to the scribes.

The Statutes are a long and sometimes complex text. Is the main reason for the exceptional position of the scribes that 'experts' were needed? And would the employment of such 'experts' have fostered trust in writing? The combination of written texts and specialist explanation is nowadays a widespread phenomenon, especially when one considers judges, High Courts and the trappings of modern legal systems. The Cologne councillors, however, had visited Universities for only a short period, if at all. They did not hold a degree.¹⁸ Just as

¹⁶ Two scribes, Sibert von Eilsich and Johann von dem Walle, took part in the commission that prepared and discussed the text; they in fact compiled it. STEIN, *Akten* 1, p. XCIII and Nr. 331, Vorrede II, pp. 634-635.

¹⁷ F. LAU, *Entwicklung der kommunalen Verfassung und Verwaltung der Stadt Köln bis zum Jahre 1396* (Bonn, 1898: Preisschrift der Mevissen-Stiftung, gekrönt und hg. von der Gesellschaft für Rheinische Geschichtskunde 1), pp. 110-111.

¹⁸ Why the councils had such reservations in accepting members with a university degree is a matter of debate: K. WRIEDT, "University scholars in German cities during the late Middle Ages: Employment, recruitment, and support", in: *Universities and Schooling in Medieval Society*, ed. W.J. COURTENAY *et al.* (Leiden, 2000), pp. 49 ff.; E. ISENMANN, "Reichsrecht und Reichsverfassung in Konsilien reichsstädtischer Juristen (15.-17. Jahrhundert)", in: *Die Rolle der Juristen bei der Entstehung des modernen Staates*, ed. R. SCHNUR, (Berlin, 1986), p. 560; H.G. WALTHER, "Italienisches gelehrtes Recht im Nürnberg des 15. Jahrhunderts", in: *Recht und*

in many other fifteenth-century cities, the Cologne scribes were university-trained; they had often studied law and sometimes held a doctor's degree.¹⁹ Then again, even today the courts' interpretation of the laws is not graven in stone. A court may have interpreted laws for years in one way, and then the same court may come to understand the opposite interpretation to be correct. Asking an expert the meaning of a text is probably not the best idea if you want to foster trust in writing – i.e. if trust in writing means trust in the content of a text fixed once and for all.²⁰ That the Prologue wants the scribes rather than the *Ratsmeister* to play the role of guardians of the text is probably due to the fact that they were not members of the city council. Formally speaking, the text is thus entrusted to an independent social institution; this puts a distance between the 'author/client' of the text (the council) and the persons who are responsible for its application.²¹

From a legal point of view, it would have been sufficient to have the council alone pronounce the new Statutes. To allow the wider city council, the council of the Forty-Four, and the jury of the archbishops court, with the judge (*Greve*), to participate, was a clever political move. The explicit self-binding of the city council to the text is new, though, as was the way this should be done, with a decisive role for the scribes.

In the Prologue we see the most important institution of late medieval Cologne clearly restraining itself when it comes to the question who is responsible

Verfassung im Übergang vom Mittelalter zur Neuzeit, Teil 1.: Bericht über Kolloquien der Kommission zur Erforschung der Kultur des Spätmittelalters 1994 bis 1995, ed. H. BOOCKMANN et al. (Göttingen, 1998: *Abhandlungen der Akademie der Wissenschaften in Göttingen, Philologisch-historische Klasse, Dritte Folge* 228), p. 227.

¹⁹ For Cologne, see STEIN, *Akten* 1, pp. CXVIII ff.; for Nuremberg, M.J. SCHMIED, *Die Ratsschreiber der Reichsstadt Nürnberg* (Nürnberg, 1979: *Nürnberger Werkstücke zur Stadt- und Landesgeschichte* 28), pp. 63 ff.

²⁰ Modern jurisprudence is aware of the fact that judges cannot stick to what a law meant when it was written down, sometimes decades ago. Instead, the German Federal Constitutional Court (Bundesverfassungsgericht) gives preference to what is called a "systematic interpretation" of old laws (which leads to the 'adaptation' of the content of old laws to modern problems). Peter Raisch quotes the German Federal Constitutional Court: "Die Auslegung einer Gesetzesnorm kann nicht immer auf die Dauer bei dem ihr zu ihrer Entstehungszeit beigelegten Sinn stehenbleiben" and adds: "der systematischen Auslegung wird also – jedenfalls bei älteren Gesetzen – eine Präferenz zugewilligt" (P. RAISCH, *Juristische Methoden: Vom antiken Rom bis zur Gegenwart* (Heidelberg, 1995), p. 150). That reading, not writing, is the decisive process in which a text is attributed a specific meaning – a notion quite common among students of literary works – can only be mentioned here. See, for instance, W. ISER, *Der Akt des Lesens* (München, 1994).

²¹ See *infra*, pp. 287 and 299.

for writing the most important constitutional text of the fifteenth century. Modesty is a virtue, but a virtue seldom found among politicians, even in the late Middle Ages. I do not wish to speculate on the reasons for the council to act in this way. From the perspective of the text, one might argue that the Statutes are not portrayed as a child of the city council's might and power – something which in other circumstances the council was eager to preserve and put forward. The slightest change of the text had to be approved by all institutions mentioned. It should be noted that there were no regular gatherings of both the council and the council of the Forty-Four, the High Court and the judge. The extraordinary gatherings of these institutions took place only once every ten or fifteen years during the fifteenth century.²² That all these institutions are mentioned, and that the scribes are to be used as watchdogs, gives the impression that the ties between council and text were not very tight. The text could become an almost independent product, written and guarded by several different persons and institutions.

4. *Being Able to Refer To*

Communicating by Reference

No doubt as a written compilation the Statutes of 1437 contained significant regulations about how to manage the city. Like almost all constitution-like texts, however, the task of such a document may not primarily be to settle certain matters once and for all. Looking at the incoherence of the text presented, and at the lack of properly legitimised institutions of interpretation, this seems to be true also of the Cologne Statutes.

A constitution-like text may, however, be used as a reference; and if you can point out a good reference, your argument is strengthened. But what does 'pointing to a reference' really mean? It has just been argued that the content of the Cologne Statutes did play some role, but it can hardly be said to have played the most important one. Having a reference to point to not only strengthens an argument because what you put forward *here* is already written *there*. From the perspective of the structure of communication, that you can point to something, the pointing itself, is decisive in the way writing is used here.

²² If I am not mistaken, in 1420, seventeen years before the Statutes were passed, all these institutions had met for the last time; cf. STEIN, *Akten* 1, Nr. 111, pp. 286-287.

The point I want to make is that, in looking at the way in which people communicate, a certain change is taking place when texts of this kind are involved. Without such a reference, what might have been a bipolar conversation between two people of the kind “I am right and you are wrong”, now suddenly involves a third party: “I am right and you are wrong – and the text says so as well”.²³ What is gained in this triangular type of communication is a common ground, even if the content of the text may remain a matter of debate. Although they may not realize this, in their controversy the two parties now agree on two things. They agree that it is important to refer to the text, and that in consequence the text as such is relevant.

This is not the only possible triangular type of communication, however. There is also the conversation of the kind “I am right, and you are wrong, and the master tailor says so as well”. Is there a difference about pointing out a text and referring to a person? Medieval society is an edifice built of groups. Each person belongs to one or more of groups (families, guilds, fraternities ...), which occupy positions in relation to other groups and persons. Of course, you may refer to a master tailor to strengthen your position, but most likely everyone will know that you are a member of the same guild, or that he is the husband of your niece. In such a society, in time of conflict even kings rapidly identify with one side or the other.²⁴ Maybe this is why, in the Middle Ages, most often mobilising persons in your favour does not take on the form of ‘referring-to-someone’, but of putting forward a request or plea. It is, for instance, quite common for city courts to mitigate a verdict because a guild or some high-ranking persons plead on behalf of those convicted. This is helpful, especially if the guild in question is that of the knife-smiths gathering in front of the city hall to ‘intercede’ for one of its members, as happened in Nuremberg in 1503.²⁵ No doubt the guild’s action had a positive effect on the verdict,

²³ Discussing the difference between a verbal agreement/promise and a written contract, K. EHLICH, “Funktion und Struktur schriftlicher Kommunikation”, in: *Schrift und Schriftlichkeit – Writing and Its Use: Ein interdisziplinäres Handbuch internationaler Forschung – An Interdisciplinary Handbook of International Research* 1, ed. H. GÜNTHER et al. (Berlin and New York, 1994: *Handbücher zur Sprach- und Kommunikationswissenschaft* 10), p. 25, says that through writing one gains an external “institution of appeal”: “Die Schriftform entbindet das Versprechen aus der unmittelbaren Sprechsituation. Sie objektiviert es und erleichtert so die Garantierung durch die Einrichtung einer externalisierten Appellinstanz”.

²⁴ K.J. LEYSER, *Herrschaft und Konflikt: König und Adel im ottonischen Sachsen* (Göttingen, 1984: *Veröffentlichungen des Max-Planck-Instituts für Geschichte* 76), pp. 157 ff. has shown that it was difficult for Ottonian kings to act as judges even in local disputes, because they were in one way or another involved in these conflicts.

²⁵ The council took up the challenge, and sent the knife-smiths back because the guild was

which would otherwise have been the gallows. However, for society as a whole, pointing to persons – most of the time ‘supporters’ – risks fuelling conflicts.²⁶

This is different with texts, at least with texts that have acquired a certain quality. In his book *Das kulturelle Gedächtnis*, Jan Assmann describes how, in ancient Egypt, texts became ‘canonised’. For this to happen, it was important, first, that a text had a certain unity. Once it had been finished, it was finished forever, and it was not possible to add or take away any parts of the text. Canonised texts are different from holy texts. ‘Holy texts’, in Assmann’s view, have to be repeatedly cited in ritualistic performances; they are not open to interpretation. This is not the case with canonised texts. They represent the normative values of a society, and around canonised texts special institutions emerge which are responsible for the texts’ interpretation.²⁷

Admittedly, ancient Egypt is not medieval Cologne. Yet Assmann’s analysis highlights that there are at least two different sorts of texts: holy texts and canonised texts. Of these two, I think that only canonised texts may achieve any kind of independence. This independence does not allow just anyone to have direct access to the texts, although the texts are not reserved for ‘holy’ rituals either. The Statutes of 1437 were the first texts of the kind in Cologne to remain in force forever. The text could only be changed if all major institutions of the city – the city council, the council of the Forty-Four, and the judge and jury of the High Court – came together and agreed to do so. Meanwhile, none of the named institutions was in direct control of how the text should be understood; the two city scribes (Assmann’s ‘special institutions’) had this task.

not allowed to come to the town hall in great numbers. They had to send nine virgins instead, and after that their two companions were set free. C. HEGEL, *Die Chroniken der deutschen Städte vom 14. bis ins 16. Jahrhundert*, 11, *Die Chroniken der fränkischen Städte 5: Nürnberg* (Leipzig, 1874), p. 661. Numerous examples can be found in K. SCHUÉ, “Das Gnadebitten in Recht, Sage, Dichtung und Kunst: Ein Beitrag zur Rechts- und Kulturgeschichte”, *Zeitschrift des Aachener Geschichtsvereins* 40 (1918); see also P. SCHUSTER, *Eine Stadt vor Gericht: Recht und Alltag im spätmittelalterlichen Konstanz* (Paderborn, 2000), pp. 273 ff.; for the sixteenth and seventeenth centuries, see K. HÄRTER, “Social control and enforcement of police-ordinances in Early Modern criminal procedure”, in: *Institutionen, Instrumente und Akteure sozialer Kontrolle und Disziplinierung im frühneuzeitlichen Europa*, ed. H. SCHILLING (Frankfurt am Main, 1999: *Ius Commune: Sonderhefte* 127), pp. 39 ff.

²⁶ F.-J. ARLINGHAUS, “Gnade und Verfahren: Kommunikationsmodi im spätmittelalterlichen Stadtgerichtsverfahren”, in: *Interaktion und Herrschaft: Die Politik der frühneuzeitlichen Stadt*, ed. R. SCHLÖGL (Konstanz, 2004: *Historische Kulturwissenschaft* 5), pp. 137 ff.

²⁷ J. ASSMANN, *Das kulturelle Gedächtnis: Schrift, Erinnerung und politische Identität in frühen Hochkulturen* (München, 1992), pp. 91 ff.

Ancient Egypt is not medieval Cologne, but the similarities are striking. According to our interpretation of the Prologue, the Statutes of 1437 were not only symbolically charged, but ‘canonised’, or, as I prefer to put it, constructed as something different and independent, not ascribed to (or belonging to) a certain group or person.

That brings us back to the reference-argument put forward above. Something you want to refer to has to be considered different and independent, and must exist in its own right. A written text – at least in pre-modern times – is not *per se* to be considered independent, as Assmann’s differentiation between holy and canonised texts has shown. Texts do have the potential to become something different, but, at least in late medieval Cologne, this required a certain ‘preparation’ of the text.

The Statutes of 1437 have been discussed at some length, because in their prologue they explicitly ‘talk’ about their ‘canonization’. From the perspective of the text, this can be read as a kind of ‘declaration of independence’. This does not mean that all means employed here are necessary to transform a text into an independent point of reference. The *Verbundbrief* of 1396 was also passed by an extraordinary gathering of a kind that may have taken place for the first in Cologne history: the gathering of all twenty-two *Gaffeln*, some of which had been formed anew after the recent revolt. While all previous constitution-like documents of the city needed to be renewed every ten years, the *Verbundbrief* was the first to claim eternal validity.²⁸ However, there is no mention of scribes or other town employees to guard the text. Instead, the city attached its great seal to the letter, and all twenty-two *Gaffeln* had to do so too. Every *Gaffel* got a copy of the *Verbundbrief*, and if one got lost, an exact copy had to be written, and all twenty-two *Gaffeln* had to attach their seals to this new copy.²⁹ The text is ‘defended’ not by the scribes, but by a set of measures which show a mixture of authentication and publicity.

There are other ways to canonize a text. Time is one of them. As Jan Assmann explained, in an endless stream of tradition (“*Traditionsstrom*”), some texts are copied more often than others. After a while, some of these texts are

²⁸ U. HEPPEKAUSEN, “Die Kölner Statuten von 1437 – Ursachen, Ausgestaltung, Wirkung”, *Geschichte in Köln* 45 (1999), pp. 7–8.

²⁹ “*Ouch hain wir oeverdragen, dat wir eyn rait zerziyt der stat van Coelne ind wir alle anderen ampten ind gaffelen vurschreven, die yre segele an desen brief gehangen haent, as mallich van uns deser verbontbrieve eynen mit der stede meysten segele und unser alre ampte und gaffelen segelen besegelt haven und in unser gewalt behalden solen ...*” (ed. HUISKES, “Verbundbrief”, § 14, p. 13). The same article contains the regulations on how to proceed once a ‘Verbundbrief’ got lost or burned.

attributed a special rank. They become classics – a first step to canonization.³⁰ The *Saxon Mirror* may be a medieval example of a text that came to be canonised. over time. The text was written between 1220 and 1230 by Eike van Repgow as a private compilation of laws. 315 manuscripts survive,³¹ some of which are lavishly illustrated.³² It gained extraordinary status during the late Middle Ages, when it was used by the juries of cities such as Magdeburg and Halle, even when they should have contented themselves with applying their own city statutes.³³

Text-Reference in Practice: A Rebellious Councillor

In 1451 a conflict arose between Herman Scherfgijn, councillor and member of the jury of the archbishops' High Court, and the city council. This case illustrates how a constitution-like text played its role in communication. That year, a resolution of 1446 was abolished which had forbidden any jury members to become members of the council.³⁴ The new regulation of 1451 was not just any decision of the city council. Run-of-the-mill decisions appear in the form of small notes in the council's protocol books; they do not name other institutions, and hardly ever have alteration of the decision as their theme. Rather, because it was important, the city council as well as the council of the Forty-Four took part in the decision. It is emphasised that no one is allowed to change a word of this resolution without the approval of the two institutions named.³⁵ This was an extraordinary text indeed. This is highlighted by the fact

³⁰ ASSMANN, *Das kulturelle Gedächtnis*, pp. 91 ff.

³¹ P. JOHANEK, "Rechtsschrifttum", in: *Die deutsche Literatur im späten Mittelalter (1250-1370)*, ed. I. GLIER, (München, 1987: *Geschichte der deutschen Literatur von den Anfängen bis zur Gegenwart* 3.2), p. 408.

³² See the 'Wolfenbütteler Bilderhandschrift': *Der Sachsenspiegel: Die Wolfenbütteler Bilderhandschrift Cod. Guelf. 3.1 Aug. 2°: Faksimileband*, ed. R. SCHMIDT-WIEGAND (Berlin, 1993), and the excellent online version of that manuscript at <http://www.sachsenspiegel-online.de/>.

³³ JOHANEK, "Rechtsschrifttum", p. 410. Things were more complicated, however. Johan von Buch, who wrote his important gloss on the *Sachsenspiegel* around 1330, claimed that he has seen a manuscript sealed by the emperor – a manuscript which definitely never existed. Therefore, according to Von Buch, the status of the *Sachsenspiegel* is the result of an act by the emperor; in fact it was the outcome of an evolutionary process (JOHANEK, "Rechtsschrifttum", p. 423).

³⁴ STEIN, *Akten* 1, Nr. 152, p. 319, 9 December 1446.

³⁵ "Ind dat verdrach is geschiet durch unse heren, alle reede ind die 44 ind sall ouch nymant lengen noch kurten buyssen alle reede ind die 44" (*ibid.*, Nr. 173, pp. 370 ff., quotation

that it did not only appear in the council's protocol book, a paper volume, but was also written down, as a kind of amendment, on the expensive parchment of the oath book.³⁶

In 1451, then, the ruling of 1446 was overturned. Jury members of the archbishop's High Court like Scherfgijn could once again be elected as councillors by their *Gaffeln* – but they had to leave the council when items that concerned the court or its jury were discussed. Scherfgijn, who before 1446 had regularly been a council member,³⁷ was again elected by his guild, *Eisenmarkt*. When he had to swear his oath, however, he refused because he could not accept the regulation that obliged him to leave the council when the High Court was on the agenda.

In Cologne, as in many other cities, once you had been elected you were not allowed to step down as councillor.³⁸ Then again, no one could be admitted to the council who had not sworn his oath. Worse, Scherfgijn was a man of good reputation, belonging to one of the most important families of the city. His guild, *Eisenmarkt*, was the *Gaffel* of the wealthy Cologne merchants, who had considerable influence: this guild provided more than half of the Cologne mayors between 1399 and 1450.³⁹

Scherfgijn, when asked the reason of his objection, said that his conscience did not allow him to swear the oath, and pointed to the *Verbundbrief*. He paraphrased paragraph two, which reads that there should be only one, undivided council. If, he concluded, he had to leave the council, this would go against the *Verbundbrief*.⁴⁰ He would be pleased to swear his oath, but only if the condition about his leaving the council when there was talk about the High Court was left out.

The council ordered him to go home and think things over. After a while, a deputation of councillors was sent to his house – a quite common procedure – to ask him if he had changed his mind. Scherfgijn stuck to his position and

at p. 372; end of 1451).

³⁶ *Ibid.*, Nr. 173, p. 370.

³⁷ HERBORN, *Führungsschicht*, p. 590.

³⁸ See text given *infra*, n. 45.

³⁹ HERBORN, *Führungsschicht*, pp. 324 ff. and p. 590.

⁴⁰ "... *hait sich her Herman des eydtz geweigert zo doin, bedunckende, dat he des van consciencien weigen nyet doin moige na luyde des verbuntbrieffs, daeynne geschreven stae, dat geyn gedeilt ind gescheiden rait syn soele; seulde he dan uyss raitzstat gain, as van der alder off nuwer scheffenen sachen yedt gesproken seulde werden, dat were weder den verbuntbrieff*" (STEIN, *Akten 1*, Nr. 174, p. 373). For the reference to the 'Verbundbrief', see the edition by HUISKES, "Verbundbrief", § 2, p. 7.

was ordered to come to the council again. In front of all councillors, Scherfgijn was asked again if he was prepared to swear his oath. In his reply, Scherfgijn gave a long explanation, without saying anything new. In return, the council now made him *read* parts of the *Verbundbrief* – not the second paragraph, but the first paragraph, which says that the council has all power within the city, and every citizen has to obey it.⁴¹ Subsequently, the rebellious councillor also had to read the new regulation of the oath in dispute, which said that a nominated councillor who did not swear the oath would not be allowed to join the council.⁴² The rest of the story is quickly told. He should consider, the council told Scherfgijn, that the whole council and the council of the Forty-Four had passed this regulation, and if he did not want to swear his oath, they would tell his *Gaffel* to elect someone else. Scherfgijn thanked the council and left the town hall.

After all these gatherings and negotiations between the council and the councillor elect of the *Gaffel Eisenmarkt*, this is nothing like the showdown one might have expected. There was no kneeling or any other ritual of pardon⁴³ by the rebellious Herman Scherfgijn, no sentencing, not even the threat of punishment because he did not obey the orders of the city council. Certainly, given the background of Scherfgijn, it is fair to say that neither side was interested in an escalation of the conflict. Still, the authority and honour of the city council were at risk – and so was Scherfgijn's.

What was the function of the texts here? A look at the *content* of the texts will show that it is at least questionable that they suited the given situation. It is true that paragraph two, as Scherfgijn pointed out, wanted one, undivided council; its real aim, however, was to abolish the bicameral system still in existence in 1396, and it clearly said so.⁴⁴ What is more, since the fourteenth cen-

⁴¹ The councillors "... haint her Herman doin leisen dat punte des verbuntbriefs, dat eyn yeder burger den rait moegich ind meichtich sall lassen sitzen" (STEIN, *Akten 1*, Nr. 174, p. 374; see HUISKES, "Verbundbrief", § 1, pp. 6-7).

⁴² "... sy haint yem ouch doin leisen die partikell des vurs. verdraigs, as wer den eydt nyet doin weulde, dat man den darvur kennen ind nyet zo raide soele lassen gain"; STEIN, *Akten 1*, Nr. 174, p. 374. "Vurs. verdraigs" refers to the new regulations concerning the oath; see STEIN, *Akten 1*, Nr. 173, p. 374.

⁴³ There was a particular place behind the *Ratsmeister* in the council's chamber where people begged the council for pardon. See, for instance, *Beschlüsse des Rates der Stadt Köln 1320-1550*, 1, *Die Ratsmemoriale und ergänzende Überlieferung 1320-1543*, ed. M. HUISKES (Düsseldorf, 1990: *Publikationen der Gesellschaft für Rheinische Geschichtskunde* 65), Nr. 1458/13, 13 October 1458. Sometimes they had to kneel down; *Beschlüsse*, Nr. 1480/12, p. 629, 24 May 1480.

⁴⁴ To paraphrase the following: there shall be only one undivided council sitting together,

tury, the oath of every councillor contained the promise that he had to temporarily leave the session when the council dealt with things concerning his relatives or his guild,⁴⁵ and no one – not even Scherfgijn – complained about this or found it in contradiction with paragraph two of the *Verbundbrief*.

Instead of questioning Scherfgijn's reading of the *Verbundbrief*, the council answered with paragraph one of the text, Cologne's 'constitution'. This is curious, as paragraph six would have suited the situation exactly. It says that a councillor elect who persists in refusing his election, should be locked up in one of the city's towers for one year,⁴⁶ whereas paragraph one unspecifically wants every citizen to accept the council as the institution that ruled the city.⁴⁷

Considering the content of the paragraphs, there would have been an excellent reason for a discussion whether the texts chosen had been applicable to the controversy. Such a discussion did not take place. True, we do not know every word that was spoken during the gathering of the city council. However, the protocol book (*Ratsmemoriale*) does summarize some of Scherfgijn's statements and the orders of the council in reply. Even if there had been a discussion about the interpretation of the Statutes cited, it is telling that this was not deemed worthy of reporting.⁴⁸ Instead, the *Ratsmemoriale* does give detailed information on how, when, and by whom a text was introduced into the discussion.

and henceforth there should no longer be a small (*enge*) and a large (*wijdth*) council in Cologne: "Ouch so sall vortme eyne unverscheiden, ungedeilt rait sijn und sitzen gemeynlichen bijeynanderen in eyne rade; dat is also zu verstain, dat geyn enge noch wijdth rait bynnen Coelne me sijn noch sitzen ensall, as vurzijden geweist und gesessen hait" (ed. HUISKES, "Verbundbrief", § 2, p. 7).

⁴⁵ "Vort were sache, dat eynghe clage off sache vür den rait queme antreffende eynichs raitmans ampten, gaffel, vater, moyder, suster, broyder, heren, eydom, wijff off kynt, so sal die raitman ussgain als langhe, bis die sache volendt is" (STEIN, *Akten* 1, Nr. 62, § 12, p. 214 (an oath book of c. 1398-1400), and Nr. 159, Art. 1, § 12, p. 327 (an oath book of c. 1450)).

⁴⁶ "... so wilch man van unss ampten, gaffelen und gemeynden vurschreven also zo rade gekoiren worden is, [this person] sall darzo gehorsam sijn und zo rade sitzen sonder wederreide Ind were sache, dat eman van uns darenboyven nyet gehoorsam enwere noch zo rade sitzen enweulde, as eme geboiden wurde eynss, anderwerf und dirdewerf, so wie sich dat darzo heyscht und gebuert, dat die ungehorsame asdan eyne jair lanck unden in eyne der stede torne lijgen sall ..." (ed. HUISKES, "Verbundbrief", § 6, p. 10, *Verbundbrief*).

⁴⁷ "In deme yrsten so hain wir alle ampte und gaffelgesellschaften ... geloift und uns verbunden ...eyne rade zerzyt der stat van Coelne bystendich, getruwe und houlte zo syn ind yn moegich und mechtich lassen bliven und sitzen alre sachen" (*ibid.*, § 1, p. 6, *Verbundbrief*).

⁴⁸ I am not implying that discussions of the content of texts did not take place in general. It is just that this dispute, which does without any discussion of content, clearly brings out the reference-point aspect of a controversy – a point that is somehow 'hidden' behind the discussion of content in other examples.

Content was not irrelevant, of course, especially when the council wisely selected a paragraph that did not intensify the conflict. Nevertheless, the decisive advantage of introducing a text in this controversy cannot have been the rehearsing of content that everybody in the council was somewhat familiar with.⁴⁹ In referring to the text, Scherfgijn had not only ‘protected’ himself by pointing to widely-accepted values, but in paraphrasing the *Verbundbrief* a third, independent ‘party’ started ‘talking’ and taking part in the dispute. This widened the space of communication as now, apart from the *ad hoc* speeches of the people present, statements that were considered independent of any personal relations started to take part in the discourse.⁵⁰ It is logical, or at least understandable, that the city council could not answer this with a simple resolution, but had to mobilise a text too, so as not to leave vacant this space of communication. References to texts of ‘independent’ status are best answered with references to texts of similar status.

It is not too far-fetched to suppose that Scherfgijn could easily have found people to support him and his position – his guild, *Eisenmarkt*, which had elected him, or councillors who were also members of the High Court’s jury. That he did not see the need to call upon any supporters, but considered it sufficient to start a dispute with the city council on his own, ‘supported’ only by a text, is remarkable.⁵¹

A closer look at how the texts were used during the sitting of the city council may show in detail the advantage of introducing a text into the discussion. It was decisive that none of the city scribes, the *protonotarius* and his *secretarii*, was asked to read: the council wanted Scherfgijn himself to read out the two texts. Things do get complicated here. Scherfgijn had to read out that the Cologne council had all power in the city – a point no one questioned – and that the members of the jury should leave the city council in certain circumstances – a point strongly opposed by the reader of the text. From Scherfgijn’s point of view, he was made to quote texts that reflected his opinion only in part. Would this undermine his position? From the council’s point of view, a rebellious councillor had to read out his resolutions aloud, in front of all members of the

⁴⁹ At least parts of the *Verbundbrief* were read out after the election of a new council; STEIN, *Akten* 1, No. 192, p. 384 (c. 1460). Every *Gaffel* had such a document, and it is quite likely that it was read out regularly; R. GIEL, *Politische Öffentlichkeit im spätmittelalterlich-frühneuzeitlichen Köln (1450-1550)* (Berlin, 1998: *Berliner Historische Studien* 29), p. 276.

⁵⁰ Writing here becomes the ‘institution of appeal’ Konrad Ehlich wrote about; see *supra*, n. 22.

⁵¹ There are quite a few examples of guilds supporting their councillor elect if he was rejected by the council; see GIEL, *Politische Öffentlichkeit*, pp. 253 ff.

council. Could this not be seen as a sign of giving up, or at least of consent? There is a certain ambiguity here, because it is not clear whether one could identify the reader with the text, and, if so, up to what point.⁵² This ambiguity may have been helpful in finding a 'soft' solution. The texts formed a crucial part of a performance⁵³ that made it possible to show the authority of the council, without damaging the honour of the rebellious councillor.⁵⁴

Late Medieval Texts' Status Compared

In contrast to late medieval practices, which required the manufacturing of a text's independence before it could serve as point of reference, in present-day, modern society it seems that even price-tags on chocolate may be ascribed independent status, and that they may be used as such a reference.⁵⁵ This may be an exaggeration. At least as far as constitutions and law books are concerned, however, in our days texts claim an independent status *per se*, and are considered trustworthy.⁵⁶ Without any seals or special gatherings being necessary, today's printed laws function as 'social institutions',⁵⁷ and it has become second nature to point to them to support arguments.⁵⁸ It is no longer necessary

⁵² This is a general phenomenon when texts are read out in a performance: "Bei der Frage, ob und inwiefern sich der Vorleser von der textuellen *persona* in der Performanz unterscheiden ließ, steht man wieder vor dem Wettbewerb zwischen schriftlichen und mündlichen Autoritätsansprüchen, dem des Textes und dem des Vorlesers, da es ja der Vorleser nicht zuletzt ist, der textuellen *persona* ihre Präsenz verleiht" (F.H. BÄUML, "Autorität und Performanz: Gesehene Leser, gehörte Bilder, geschriebener Text", in: *Verschriftung und Verschriftlichung: Aspekte des Medienwechsels in verschiedenen Kulturen und Epochen*, ed. C. EHLER *et al.*, (Tübingen, 1998: *ScriptOralia* 94), p. 260).

⁵³ With reference to John L. Austin, Egidi *et al.* define performance as an action that gains its specific sense while it is taking place. It cannot be reduced to the words spoken or the texts read out. "Performanz [wird] als ein originärer, in seinem Vollzug sinnkonstituierender Akt bestimmt, der nicht auf die Aus- bzw. Aufführung eines bereits existierenden Textes ... reduziert werden kann" (M. EGIDI *et al.*, "Riskante Gesten: Einleitung", in: *Gestik: Figuren des Körpers in Text und Bild*, ed. M. EGIDI *et al.* (Tübingen, 2000: *Literatur und Anthropologie* 8), p. 26).

⁵⁴ In similar situations members of the city council had to ask for apology and to humble themselves while doing so; see *supra*, n. 42.

⁵⁵ See the *bon mot* of Niklas Luhmann at the beginning of this article.

⁵⁶ M.T. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2nd edn. (Oxford, 1993), p. 294, sees modern schooling and the constant use of documents in every-day life responsible for present-day trusting in writing.

⁵⁷ I owe the term to Rudolf Schloegl, Konstanz, and I like to thank him for answering my questions concerning this point.

⁵⁸ That printing played a key role in this status of modern texts is obvious, but cannot be

to manufacture the independence of a text, as in the case of the Cologne Statutes.

The contrary may have been true of earlier texts, more in particular those of the tenth century. This was a time when in German-speaking countries written documents were seldom to be seen, and royal or imperial charters were exceptional.⁵⁹ Peter Rück called royal charters works of art (*"Kunstwerk"*). He states that the way the script is distributed over the parchment, the script itself, the seal and the dimensions of the document emphasize that their main purpose was to be shown rather than to be read.⁶⁰ This is certainly true of Ottonian charters, whose writing is described as "ungainly" (*"ungelenk"*) and "hard".⁶¹ As a whole, with its size, symmetric distribution of writing and other signs, the charter appears more like a modern poster than as a written document.⁶² Its text, as we learn from Heinrich Fichtenau, was not only designed to be read aloud, but also to be recited and declaimed; this was quite similar to the way liturgical texts were read out.⁶³

The way these charters were used, by presenting and reciting them, was different from scanning the document silently, as we would do today. The charter itself tells us that its use took on the form of a performance.⁶⁴ So what is the

discussed here; see recently E. ESPOSITO, *Soziales Vergessen: Formen und Medien des Gedächtnisses der Gesellschaft: Mit einem Nachwort von Jan Assmann* (Frankfurt am Main, 2002), pp. 187 ff., who, referring to Walter Ong, emphasizes that through printing the discourse becomes 'a kind of thing' (p. 188).

⁵⁹ P. RÜCK, "Die Urkunde als Kunstwerk", in: *Kaiserin Theophanu: Begegnung des Ostens und Westens um die Wende des ersten Jahrtausends: Gedenkschrift des Kölner Schnütgen-Museums zum 1000. Todesjahr der Kaiserin*, ed. A. VON EUW and P. SCHREINER. (Köln, 1991), p. 311.

⁶⁰ The charter of German kings and emperors were "in erster Linie zum Anschauen, und erst in zweiter Linie zum Lesen bestimmt" (*ibid.*).

⁶¹ B. BISCHOFF, *Paläographie des römischen Altertums und des abendländischen Mittelalters* (Berlin, 1986: *Grundlagen der Germanistik* 24), p. 161.

⁶² "Die Forderung nach Symmetrie macht aus dem Handschreiben ein Plakat". "Aus den langen Präsentiertischen urkundlicher Schriftlichkeit werden hochragende romanische Textfassaden" (RÜCK, "Die Urkunde als Kunstwerk", p. 333).

⁶³ He called the way charters were read out "außerliturgisch-urkundliche[s] Rezitativ" (H. FICHTEAU, "Bemerkungen zur rezitativischen Prosa des Hochmittelalters", in: ID., *Beiträge zur Mediävistik: Ausgewählte Aufsätze* 1 (Stuttgart, 1975), pp. 145 ff., at p. 150.

⁶⁴ H. KELLER, "Ottonische Herrschersiegel: Beobachtungen und Fragen zu Gestalt und Aussage und zur Funktion im historischen Kontext", in: *Bild und Geschichte: Studien zur politischen Ikonographie: Festschrift für Hansmartin Schwarzmaier zum fünfundsiebzehnten Geburtstag*, ed. K. KRIMM et al. (Sigmaringen, 1997), pp. 3 ff.; ID., "Otto der Große urkundet im Bodenseegebiet: Inszenierungen der 'Gegenwart des Herrschers' in einer vom König selten besuchten Landschaft", in: *Mediævalia Augiensia: Forschungen zur Geschichte des Mittelalters*,

difference between the use of tenth-century charters and the use of fifteenth-century texts? In a ceremony that evoked the sacrality of kingship, sometimes within a church, the medieval king marked the charter with a stroke of the pen (the *Vollziehungsstrich*) and personally ordered to affix the seal with his image onto this *sacra pagina*. Much more than an independent object, the charter became the representative of the issuer. In this way, too, it seems that these ‘documents’ were read. As Ratpert of St. Gall († after 884) reports, when Louis the Pious was handed a privilege of his father for confirmation, he took a close look at the seal, kissed it, and handed the charter to the bystanders, asking them to follow his example and honour it in the same way.⁶⁵ Not all charters, not even royal ones, were kissed. But this is only one example among many that showed how writing did not exist in its own right, but that person, parchment and performance were intimately linked.⁶⁶

Is this only true for royal or imperial documents with their prestigious design? While trust in the legal status of a document is different from trust in writing as such, it is fair to say that the first is a prerequisite for the second. It was not the charter, or at least not the charter alone, but testimonies and widespread knowledge which could prove a medieval legal transaction.⁶⁷ Even in an urban environment, rituals such as the *effestucatio*, the handing-over of a twig, were more important for the change of ownership than an entry in the land register.⁶⁸ Even in this context, then, written documents are to be seen more as

ed. J. PETERSOHN (Stuttgart, 2001: *Vorträge und Forschungen* 54), pp. 205–245.

⁶⁵ These and other examples are given by KELLER, “Otto der Große urkundet im Bodenseegebiet”, p. 217.

⁶⁶ Referring to another episode, Hagen Keller explicitly wrote that the “act of publishing” might have evoked the “presence of the absent king” (KELLER, “Otto der Große urkundet im Bodenseegebiet”, p. 242).

⁶⁷ Michael Clanchy gives a meticulous analysis of the transformation from ‘memory’ to ‘written record’ (CLANCHY, *From Memory to Written Record*, pp. 253 ff., pp. 293 ff.; and cf. the introduction, p. 2). For Germany, Peter Johanek stated that it was “die Rechtshandlung und ihre Publizität” (P. JOHANEK, “Zur rechtlichen Funktion von Traditionsnotiz, Traditionsbuch und früher Siegelurkunde”, in: *Recht und Schrift im Mittelalter*, ed. P. CLASSEN, (Sigmaringen, 1977: *Vorträge und Forschungen* 23), p. 155). Examples of used – or rather: non-used – charters in legal conflicts even between bishops and kings are given by K. HEIDECKER, “Communication by written texts in court cases: Some charter evidence (ca. 800–ca. 1100)”, in: *New Approaches to Medieval Communication*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1), pp. 101 ff.

⁶⁸ The famous Cologne *Schreinsbücher*, a series of ‘land registers’ starting in the first half of the twelfth century, were attributed value as evidence during the thirteenth century only; H. PLANITZ, “Konstitutivakt und Eintrag in den Kölner Schreinsurkunden des 12. und 13. Jahrhunderts”, in: *Festschrift Alfred Schultze*, ed. W. MERK (Weimar, 1934), pp. 175 ff. For

part of a ceremony than as independent points of reference. “In the rare instances where the conveyance appears to be made by the written document itself”, Michael Clanchy writes, “we should probably assume that the document is serving the ancient function of a symbolic object, rather than being considered primarily for its content in a modern literate way”.⁶⁹

During the tenth and eleventh centuries, and still in our example from the fifteenth century, written texts were an integral part of performances. The decisive difference is, that in the earlier examples charters were used as symbols or representatives of absent persons. Texts like the *Verbundbrief*, however, appear on stage in their own right, as a third party.⁷⁰ While the use of the charters is reminiscent of a ritual (for instance, evoking the presence of the absent), the use of the *Verbundbrief* is closer to the staging we can witness in today’s theatres or at party conferences.

Going back to the reference-argument, it seems that, compared either with the High Middle Ages or with modern times, the late medieval use of writing is caught somewhat in-between. The status of writing before and that after the late Middle Ages, even if completely different, is quite clear; during the thirteenth, fourteenth and fifteenth centuries, however, it is somewhat ambiguous. While the ever-increasing use of writing in everyday life – the twelfth century may be seen as the watershed – fostered trust in writing, it was still not regarded as a distinct sphere of communication. While silent reading began to spread and the layout of texts changed when, for instance, tables of contents and indices appeared,⁷¹ the status of writing in general was still different from what we see today: it was not seen as something independent, it could not *per se* serve as point of reference. For instance, in the books which began to be

examples of *effestucationes* in Cologne, see: *Die Kölner Schreinsbücher des 13. und 14. Jahrhunderts*, ed. H. PLANITZ *et al.* (Weimar, 1937: *Publikationen der Gesellschaft für Rheinische Geschichtskunde* 46), pp. 2, 10 and *passim*. For a quick overview, see W. HERBORN, “Schreinswesen, -buch, -karte”, in: *Lexikon des Mittelalters* 7 (München, 1995), cols. 1557 ff.

⁶⁹ CLANCHY, *From Memory to Written Record*, p. 236.

⁷⁰ This, of course, has its repercussions on the ‘performance’ itself, but this cannot be discussed here.

⁷¹ See, for instance, P. SAENGER, *Space Between Words: The Origins of Silent Reading* (Stanford, 1997: *Figurae: Reading Medieval Culture*); I. ILLICH, *In the Vineyard of the Text: a Commentary to Hugh’s Didascalicon* (Chicago, Ill. etc., 1993); M.A. ROUSE and R.H. ROUSE, “Statim invenire: Schools, preachers, and new attitudes to the page”, in: *Renaissance and Renewal in the Twelfth Century*, ed. R.L. BENSON *et al.*, (Cambridge, MA, 1982), p. 201 ff., reprinted in: ID., *Authentic Witnesses: Approaches to Medieval Texts and Manuscripts* (Notre Dame, 1991), pp. 191–219; *Mise en page et mise en texte du livre manuscrit*, ed. H.-J. MARTIN and J. VEZIN (Paris, 1990).

designed for private reading, such as books of hours and prayer books,⁷² and the textbooks of the *Devotio moderna*,⁷³ writing (and the visual images accompanying writing) first served as a medium for contemplation, a tool to get closer to God and the Saints. If successful, instead of being a point of reference, writing as a *medium* was meant to disappear.⁷⁴ This is not only true for religious texts: letters, for instance, were still viewed more as the ‘frozen’ voice of the sender (and most of the time they were read aloud), than as text in their own right.⁷⁵ The Cologne oath books and the *Verbundbrief* could claim an ‘autonomous’ status. Yet they were probably as often read out during ritual-like acts – such as the changing of the councillors every six months – as they were used explicitly as points of reference.

In its ambiguity, the culture of late medieval writing was open to the use of texts of differing status. In contrast to modern times, if a written text was to function as a point of reference, it was somehow necessary to mark it as distinct and independent. More than today, therefore, the written document itself had to provide information about its status. Sometimes this happened explicitly, as in the Prologue of the Statutes of 1437, sometimes it was implicit, for instance, by its many seals and the order to ‘publish’ it, as in the *Verbundbrief*. Especially in the cities of the time, persons of unusual status – Assmann’s ‘social institutions’⁷⁶ – emerged, who took on the task of safeguarding the text. One may think here of the notaries public in Italy,⁷⁷ or of the town clerks in German-

⁷² T. LENTES, “Prayer books: Multimedia-contribution on the CD-ROM”, in: *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages*, ed. F.-J. ARLINGHAUS *et al.* (Turnhout, 2005: *Utrecht Studies in Medieval Literacy* 6b).

⁷³ N. STAUBACH, “Text als Prozeß: Zur Pragmatik des Schreibens und Lesens in der *Devotio moderna*”, in: *Pragmatische Dimensionen mittelalterlicher Schriftkultur: Akten des Internationalen Kolloquiums des Sonderforschungsbereichs 231, 26.-29. Mai 1999*, ed. C. MEIER *et al.* (München, 2002: *Münstersche Mittelalter-Schriften* 79), pp. 251 ff.

⁷⁴ See LENTES, “Prayer books”; STAUBACH, “Text als Prozeß”, p. 251 ff. (with bibliography).

⁷⁵ H. WENZEL, “Boten und Briefe: Zum Verhältnis körperlicher und nicht-körperlicher Nachrichtenträger”, in: *Gespräche – Boten – Briefe: Körpergedächtnis und Schriftgedächtnis im Mittelalter*, ed. H. WENZEL (Berlin, 1997: *Philologische Studien und Quellen* 143), pp. 86 ff.

⁷⁶ See *supra*, p. 284.

⁷⁷ For the complex connection between trusting the notary and trusting the document he wrote, see P. SCHULTE, *Scripturae publicae creditur: Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003: *Bibliothek des deutschen Historischen Instituts in Rom* 101), pp. 27 ff. It seems that a strong ‘personal’ element in the use of writing lasted throughout the Middle Ages.

speaking territories.⁷⁸ Sometimes, as the Cologne *Schreinsmeister*, they were the only ones to have full access to the written documents.⁷⁹

5. Outlook

The late medieval city remained, after all, a religious community. However, we should not overlook the very different forms of life to be found within the city walls. From the fourteenth century onwards, the many revolts may indicate a lack of stability. Establishing certain texts as independent points of reference in the discourses of the time may have helped to alleviate the problem. Without realizing it, people now differentiated between the ‘pointing to’ the text and the content of that text. ‘Referring to’ was introduced as a new common ground into the societies of the time. This differentiated form of communication put less weight on the content of a text. This, in turn, allowed even fiercer battles on content, because communication as such was no longer completely at risk in an argument, as long as the parties agreed that *pointing to* a certain text was important. Since content is a matter of interpretation, more than what a statute really ‘says’, their reference to it was to be trusted. More generally, one may argue that by establishing independent texts that could function as points of reference, late medieval society may have regained a stability that might have been lost because of its ever-growing complexity.

⁷⁸ See, for instance, P. HOHEISEL, *Die Göttinger Stadtschreiber bis zur Reformation: Einfluß, Sozialprofil, Amtsaufgaben* (Göttingen, 1998: *Studien zur Geschichte der Stadt Göttingen* 21); M. JUCKER, “Vom klerikalen Teilzeitangestellten zum gnädigen Kanzler: Aspekte der spätmittelalterlichen Bildungswege der Stadtschreiber in der Eidgenossenschaft”, *Traverse* 9 (2002), pp. 45 ff.

⁷⁹ Only the *Schreinsmeister* and their scribe were allowed to look up the entries in the ‘land registers’ (*Schreinsbücher*). If needed, the citizens received copies of these entries to present in court; K. MILITZER, “Entstehung und Bildung von Archiven in Köln während des Mittelalters”, in: *Archivprozesse: Die Kommunikation der Aufbewahrung*, ed. H. POMPE (Köln, 2002: *Mediologie* 5), p. 30; PLANITZ, “Konstitutivakt”, pp. 175 ff.

Rebels, Texts and Triumph: The Use of Written Documents during the Revolt of 1477 in Bruges

JACOBA VAN LEEUWEN

Trust in the political order and security in life are considered as basic requirements in every society. This confidence does not grow spontaneously, but is the result of socialisation and experience. Sometimes trust in the political order was severely damaged or broken because of historical circumstances. During such a crisis, uprisings could occur, which reformulated the foundations of the political order before trust in society was restored. Revolts can be considered both as breaches of trust and as means to engender trust in the future. In this contribution we will explore how the written word contributed to the process of trust-building through revolt.

The insurrection at Bruges which took place in 1477 will serve as a case-study. After the death of the Burgundian Duke Charles the Bold, political order in Flanders was seriously put into question; it was changed as the result of several uprisings. We cannot pass over either the motives of the conflict or its course; however, the contents of the debate will not be the focus of this contribution. Our attention will be on the use of written documents as (symbolic) objects during this revolt. Karl Heidecker has already emphasised that: “historians and students of charters today should be treating documents like other medieval artifacts”. He suggested a semiotic approach, in which the changing functions of written documents, their preservation and use should be studied more intensively.¹ We will analyse how texts as material objects were em-

¹ K. HEIDECKER, “Introduction”, in: *Charters and the Use of the Written Word in Medieval Society*, ed. K. HEIDECKER (Utrecht, 2000: *Utrecht Studies in Medieval Literacy* 5), pp. 11-12.

ployed to communicate power, triumph and defeat, and how these documents could restore trust in authority.

First, we will provide a short outline of the events in Bruges between January and May 1477. Then, we will explore the various uses of written documents in the conflict. The use of texts will be compared with their use in other medieval urban revolts in Flanders. We will explore whether the strategies used in Bruges were new or based upon older traditions. We will also examine whether these uses of the written word were typical of towns, or that they have to be considered as generally used means to establish, repair and communicate a particular balance of power.

*The Rebellion in Bruges in Chronological Order*²

On 5 January 1477, Duke Charles the Bold fell in the battle of Nancy. With his death ended a reign characterised by a great urge for centralisation to the detriment of the towns, which had been striving for autonomy. Charles had harshly restricted the power of the towns, and therefore they had developed a profound distrust of the central authorities. For the county of Flanders and the other principalities of the Burgundian realm, the unexpected death of this authoritarian duke formed an ideal opportunity to abolish the damaging regulations he had issued. Since the political and military context was rather insecure, the duke's disenchanted subjects could push their plans through without much opposition. The death of Charles the Bold meant a new start for the Burgundian State. The clock was put back temporarily, and many centralising measures were abolished in favour of the towns' local autonomy. In doing so, the subjects wished to restore trust in the central authority.³

From 16 January onwards, the States General of the Burgundian Netherlands assembled to discuss the succession of Charles by his young daughter, Mary of Burgundy. Her recognition as Duchess of Burgundy was conditional

² For more detailed information, see below.

³ For the general background, see: *Le privilège général et les privilèges régionaux de Marie de Bourgogne pour les Pays-Bas – 1477 – Het algemene en de gewestelijke privilegiën van Maria van Bourgondië voor de Nederlanden*, ed. W.P. BLOCKMANS (Kortrijk and Heule, 1985: *Standen en Landen* 80), pp. 1-78; W.P. BLOCKMANS, "Breuk of continuïteit? De Vlaamse privilegiën van 1477 in het licht van het Staatsvormingsproces", in: *Le privilège général*, pp. 97-144. For Bruges, see: A. JANSSENS, "Macht en onmacht van de Brugse schepenbank in de periode 1477-1490", *Handelingen van het Genootschap voor Geschiedenis gesticht onder de benaming 'Société d'Emulation te Brugge* 133 (1996), pp. 5-45.

upon certain stipulations; the result was a general privilege for all the principalities in the Low Countries, as well as a privilege for the county of Flanders. Both were issued on 11 February.⁴ On 16 February, Mary administered her oath as Countess of Flanders in Ghent. Three days earlier, on 13 February, an insurrection had started in Bruges. The craftsmen had gathered with their weapons on the central market square in the town. Among other things, they demanded that the Peace of Arras of 1438 should be abolished: this treaty had considerably limited the power of Bruges.⁵ Moreover, they claimed that Bruges' rural district, the Franc of Bruges (*Brugse Vrije*, *Franc de Bruges*) should no longer be recognised as one of the Four Members of Flanders. This representative institution was to consist from now on of the three largest towns in the county: Ghent, Bruges and Ypres.⁶ By excluding its rural district from this institution, Bruges could enlarge its power over the area. The Peace of Arras was indeed abolished on 7 March 1477, and on 20 March the Franc of Bruges lost its right to participate in assemblies of the Members of Flanders. Mary of Burgundy confirmed this in her privilege for Bruges of 30 March 1477. In this document many other demands of the inhabitants of the town were granted.⁷ Bruges then invited Mary to visit the town to administer her solemn oath there. Meanwhile, however, other problems had arisen, since the men of Bruges had learned that the Franc of Bruges was once again recognised as a Member of Flanders. The people of Bruges rebelled anew on 9 April and demanded that Mary should clarify the position of the Franc of Bruges before she could be celebrated as the new Countess of Flanders. That same day the abolition of the Franc of Bruges as a Member of Flanders was confirmed;⁸ however, this did not satisfy the inhabitants of Bruges. They required that the mention of the fourth Member of Flanders be removed from every copy of the Flemish privilege of 11 February

⁴ Edited by W.P. BLOCKMANS and E.I. STRUBBE, "Privilegie voor het graafschap Vlaanderen, verleend door Maria, hertogin van Bourgondië, ter bekrachtiging van de klachten die de Staten haar hadden voorgelegd", in: *Le privilège général*, pp. 126-144.

⁵ For the context of this peace treaty, see: J. DUMOLYN, *De Brugse opstand van 1436-1438* (Kortrijk and Heule, 1997: *Standen en Landen* 101), pp. 283-288.

⁶ For the context, see: W.P. BLOCKMANS, *De volksvertegenwoordiging in Vlaanderen in de overgang van Middeleeuwen naar Nieuwe Tijden (1384-1506)* (Brussels, 1978: *Verhandelingen van de koninklijke academie voor Wetenschappen, Letteren en Schone Kunsten van België: Klasse der Letteren* 90), pp. 129-132.

⁷ Edition in: L. GILLIODTS-VAN SEVEREN, *Coutume de la ville de Bruges* (Brussels, 1874-1875: *Recueil des anciennes coutumes de la Belgique: Coutumes des Pays et Comté de Flandre: Quartier de Bruges: Tome premier*) part II, nr. C, pp. 72-100.

⁸ Bruges, Staatsarchief [henceforth SAB], Oud archief, politieke oorkonden, eerste reeks, 1153; Ghent, Staatsarchief [henceforth SAG], Oud archief, stadscharters 708.

1477. Only on 19 April was Mary celebrated in Bruges as Countess of Flanders. Two days later, she issued a second privilege for Bruges, recognising the demands of the town.⁹

During three months, from 11 February till 21 April 1477, politics in the county of Flanders and the town of Bruges had been dominated by finding a balance of power between the central authorities and the towns. Many old regulations were abolished, and many new ones were issued. However, the course of events was to show that this was only a temporary return to local autonomy in the Low Countries.

Written Documents as (Symbolic) Objects During the Revolt of 1477

The Compilation of Lists of Complaints

The death of Charles the Bold formed an ideal opportunity to redefine the balance of power between the local and the central authorities. Trust in the central government was at issue; confidence had been severely damaged during the reign of the deceased duke. Almost immediately after the news of his demise spread, the Flemings sprung into action to gather complaints about the deceased's rule and to present them to his successor. At the end of January the towns subordinate to Bruges assembled to draft a collective list of complaints.¹⁰ On 9 February 1477 a clerk was remunerated for his work in writing down the complaints of the Four Members of Flanders on seven paper pages.¹¹ In the general privilege for the County of Flanders, issued on 11 February, these demands were granted. The drafting of lists of complaints upon the death of a sovereign was not particular to the events in 1477; it was a traditional form of action in medieval Flanders.¹² However, the massive and well-organised character of the actions in 1477 was indicative of the general lack of confidence in central authority.¹³

⁹ SAB, Oud archief, politieke oorkonden, eerste reeks, 1155.

¹⁰ W.P. BLOCKMANS, *Handelingen van de leden en de staten van Vlaanderen: Regeringen van Maria van Bourgondië en Filips de Schone (5 januari 1477-26 september 1506): Excerpten uit de rekeningen van de Vlaamse steden en kasselrijen en van de vorstelijke ambtenaren*, 1, *Tot de vrede van Kadzand* (Brussels, 1973: Koninklijke commissie voor geschiedenis 58), No. 2. Comments: BLOCKMANS, "Breuk", p. 100.

¹¹ *Ibid.*

¹² BLOCKMANS, *De volksvertegenwoordiging*, pp. 323-326.

¹³ BLOCKMANS, "Breuk", p. 101.

Despite the privilege of 11 February, the men of Bruges still had much to complain about. When a general strike broke out that same month, immediately an assembly was called to draft a new petition, with specific reference to the situation in Bruges. In the municipal archives at Bruges the original list has been preserved to this day. It is not clear how the document was produced. According to the heading of the text, the deans of the guilds and the heads of the Bruges districts had examined the complaints of the inhabitants.¹⁴ These earlier complaints had probably been written down on 17 February, when twelve clerks were paid to “record points and articles considering the town to have them granted in a privilege”.¹⁵ Mary of Burgundy approved most of these requests in the privilege she issued on 30 March. This locally-inspired action by the inhabitants of Bruges was not particular to this town. Earlier, Ghent had also drafted a list of complaints dealing specifically with the government of the town, and had presented this appeal to Mary. On 30 January 1477 the duchess had approved these requests, quoting the petition in its entirety.¹⁶

Although many grievances were by now solved, the rebels were still not satisfied. On 7 April, before Mary of Burgundy was to be celebrated in Bruges, the municipal government called an assembly to discuss new complaints and to have them redressed by a privilege.¹⁷ Two days later, the men of Bruges heard that the Franc of Bruges was again installed among the Four Members, and rebelled. Mary begged the people to stay calm and promised them to grant their requests. Because of this promise, an assembly hall was built in the open air, on the market square. Here, the aldermen, the districts’ heads and the deans of the guilds could confer and gather grievances.¹⁸ Their meetings produced a new petition; it is preserved in the town’s archives.¹⁹

The custom of drafting lists of complaints during an insurrection to present them to the authorities was a traditional strategy in medieval Flemish towns. In 1436, e.g. the inhabitants of Ghent submitted a list of 66 complaints to Philip the Bold.²⁰ During a revolt in 1488, the Nine Members (i.e. the representatives

¹⁴ SAB, Oud archief, 99, politieke oorkonden, eerste reeks, 1144.

¹⁵ SAB, Oud archief, 216, Stadsrekeningen 1476-1477, f. 124r.

¹⁶ Edition in: V. VANDER HAEGHEN, “La charte donnée aux Gantois par Marie de Bourgogne en 1477”, in: *Melanges Paul Fredericq: Hommage de la société pour le progrès des études philologiques et historiques* (Brussels, 1904), pp. 273-278.

¹⁷ SAB, Oud archief, 216, Stadsrekeningen 1476-1477, f. 130r.

¹⁸ Anthonis de Roovere *et al.*, *Excellente Cronike van Vlaenderen*, ed. W. VORSTERMAN (Antwerp, 1531), ff. 182r-183v.

¹⁹ SAB, Oud archief, 99, politieke oorkonden, eerste reeks, 1143.

²⁰ J. DUMOLYN, “The legal repression of revolts in late medieval Flanders”, *Tijdschrift voor*

of the Bruges commune) again had a list of requests written down to present to the central authorities.²¹ With the documents of 1477, this list is still kept in the town's municipal archives.²²

Complaints to the central authorities could be made by word of mouth, but in late medieval Flanders petitions were preferably presented in writing. Such texts were written down to express firmly the distrust of the burgesses in decision making in both town and county. First, a pragmatic aim was served by writing: no complaints could be forgotten during the negotiations. Moreover, every shade of meaning could be formulated correctly. The correct formulation of the agreed balance of power was valuable; in 1477 Mary of Burgundy often copied the formulation of regulations verbatim from the original petitions.

If the importance of these lists was merely practical, however, why were these documents afterwards kept in the archives rather than thrown away after the promulgation of a new privilege? Once the grievances of the public had been redressed, the documents no longer served any practical purpose. That the texts were preserved, shows that the lists were seen as symbolic objects, referring as they did to the subjects' protest and participation. Unfortunately, not much is known about the way the men of Bruges handled these documents, or about the circumstances in which they consulted them later. It is certain, however, that it was important to keep alive the memory of the insurrection and the triumph of the town.

Examination of the Municipal Records

The uprisings in Bruges had started on 13 February 1477. The craft-guilds had demanded certain measures to be taken to enhance the prosperity of the town. Every privilege restricting the power of the town had to be abolished, and new regulations had to be proclaimed. To draw up a list of documents likely to be detrimental to the town, the craft-guilds asked the municipal government permission to visit the archives and examine the charters preserved there. These valuable documents were stored in the town's Belfry. The keys of the charter-boxes were distributed among members of the bench of aldermen and town councillors: without the unanimous consent of these keyholders the municipal

rechtsgeschiedenis 68 (2000), p. 511.

²¹ O. DELEPIERRE, "Marie de Bourgogne et Maximilien", *Annales de la société d'émulation pour l'histoire et les antiquités de la Flandre Occidentale* 4 (1842), pp. 230 ff.

²² SAB, Oud archief, 99, politieke oorkonden, eerste reeks, 1230.

records could not be consulted. The craft-guilds normally could not dispose of these documents; during the 1477 uprising they asked an exception to be made to this general rule. Jan van Nieuwenhove, mayor of the bench of aldermen and a supporter of the duke, refused to open the archives. Because of this denial the craft-guilds rebelled and gave the mayor such a fright that he fled the town. The remaining members of the municipal government then decided to grant the demand for an examination of the town's charters.²³ The deans of the craft-guilds and the heads of the town's districts inspected the records in the presence of the aldermen and councillors. Every document was read and checked thoroughly. The guilds' deans and the heads were helped by the chaplain of Our Lady's Church in Bruges and four doctors of theology, who were mendicants residing in the town. These scholars were involved in the reading of the charters and they had to translate them, if necessary, from Latin or French into Dutch and explain their contents. The municipal government remunerated them later for their contribution, saying that they took one month to perform this job.²⁴ According to the chronicler Nicolaes Despars, the charters were not only examined, but also read out to the people during a three-day session.²⁵ In this way the contents of the municipal archives were published to the inhabitants of the town, who were able to control the contents of the documents. This possibility to control events engendered trust that the rebellion's leaders would try to abolish every harmful measure taken in the past.

A demand to examine the local records was voiced during several uprisings which took place in medieval Flanders. Repeatedly, rebels argued that it was necessary to make an inventory of those regulations that had to be abolished in the future. In March 1477 a demand to this end was submitted to the municipal government of Ypres, which decided to appoint two aldermen and a clerk to supervise the examination of the records. They had to show the representatives of the craft-guilds every charter kept in the Belfry, as well as the registers kept by the town's administration. Although the municipal government wished to reserve this examination to a closed assembly, the uprising got out of hand and

²³ Nicolaes Despars, *Cronijcke van den lande ende graefjscepe van Vlaenderen van de jaeren 405 tot 1492*, ed. J. DE JONGHE, 4 vols. (Bruges, 1837-1840), 4, p. 123; comments: JANSSENS, "Macht", p. 8.

²⁴ They were: Eustaes Leewercke, Jacobin; Joris van Beauvais, Augustinian; Willem van Lisseweghe, Blackfriar; Jaocb Bekeman, Carmelite; and Jan Alaert, chaplain (Anthonis de Roovere *et al.*, *Excellente Cronike*, f. 180r). The entries in the city accounts have been edited by: L. GILLIODTS-VAN SEVEREN, "La mort de Charles le Téméraire: Les suites qu'elle eut en Flandre", *La Flandre* 15 (1884), p. 36.

²⁵ Nicolaes Despars, *Cronijcke*, 4, p. 123.

a large group of rebels rushed on these valuable documents, causing much damage.²⁶ The demand to check municipal records was not exclusively expressed in the singular circumstances of 1477. During a revolt in Ghent, which lasted from 1449 till 1453, the rebels had also used this strategy. On 9 December 1451, when the resistance to the Burgundian duke had entered a radical phase, the leaders of the rebellion, the main deans of the guilds and the town's aldermen visited the charter room in the Ghent Belfry. Presumably they selected some charters, taking these valuable documents from the archives. The next day, they summoned the people onto the Vrijdagmarkt and showed them several charters, which they proceeded to read out. Some of these documents dated from the thirteenth century and were translated from Latin into the vernacular, so that the crowd could understand their contents.²⁷

It is telling that the rebels were not satisfied with copies of the town's privileges, but demanded to examine the original charters. Apparently, more trust was given to the originals; the layout of the charters, with their seals and autographs, was proof of the legitimacy of the documents. The trust in the town's privileges seems to have been rooted in more than just their contents. Power over the records meant power over the town, and in a crisis the secrecy of the archives was very often questioned.

The publication of the municipal records was an important demand during urban uprisings. However, the rebels did not only demand old documents to be accessible, every text produced during the revolt had to be published to the town's inhabitants as well. In 1451, rebels in Ghent decreed that the people should be informed about every development. Every time the bell of the Belfry was ringing, the inhabitants were to go to the Vrijdagmarkt, where recently

²⁶ Edition: I.L.A. DIEGERICK, "Episode de l'histoire d'Ypres sous le règne de Marie de Bourgogne, 1477", *Annales de la Société d'émulation pour l'étude de l'histoire et des antiquités de la Flandre*, 2nd ser. 6 (1848), pp. 443 and 446. Afterwards, a committee had to investigate what had happened in March 1477. The testimonies written down on this occasion refer several times to the plundering of the municipal archives (edition in: J. JUSTICE, "La répression à Ypres après la révolte de 1477: Documents faisant suite à l'épisode de l'histoire d'Ypres sous le règne de Marie de Bourgogne publié par. M.J. Diegerick dans le tome VI de la 2ième série des Annales", *Annales de la Société d'émulation pour l'étude de l'histoire et des antiquités de la Flandre*, 5th ser. 41 (1891), pp. 1-68.

²⁷ Anon., *Dagboek van Gent van 1447 tot 1470 met een vervolg van 1477 tot 1515*, ed. V. FRIS, 2 vols. (Ghent, 1901-1904: *Maatschappij der Vlaamsche Bibliophilen vierde reeks* 12) 1, pp. 195-210. Comments: P. ARNADE, "Crowds, banners, and the marketplace: Symbols of defiance and defeat during the Ghent War of 1452-1453", *Journal of Medieval and Renaissance Studies* 24 (1994), pp. 485-486.

received documents were shown to them and then read out.²⁸ In 1477, the people of Ypres claimed that every letter addressed to the municipal government should be shown to the captains of the insurrection, and then proclaimed to the public.²⁹

The publicity of decision-making and the publication of the records was essential to the rebels. In this way they could control developments and increase trust in their policy. During the 1477 uprisings in Bruges, the craft-guilds strove to consolidate this accessibility. The rebels demanded that every document the municipal government was received be announced to the guilds' deans and the heads of the districts within 24 hours. Within three days the texts had to be published to the inhabitants of the town. Moreover, the rebels claimed the keys of the charter-boxes, which were to be distributed among the Nine Members, representing as they did the commune, rather than among the municipal government.³⁰ The charters could no longer be examined without the consent of the guilds' deans and the chiefs of the town.³¹ Mary of Burgundy confirmed this provision on 21 April in her second privilege for Bruges.³² Access to the archives and the municipal correspondence was no longer restricted to the town's aldermen and councillors, but was controlled by a larger group. This gave substance to trust in the representatives of the people, who would be able to take part in making decisions. The town's inhabitants were informed about the new regulations, and their representatives had access to the municipal records.

Trust in the municipal authorities seems to have been rooted to a large extent in the accessibility of the records and the resulting possibility of control.

Removing Documents from Archives

During the insurrection at Bruges, the municipal charter-boxes were not the only archives opened by the rebels. Other collections of valuable documents

²⁸ *Dagboek van Gent*, 1, p. 228.

²⁹ DIEGERICK, "Episode", p. 439.

³⁰ About these nine persons, see: A. VANDEWALLE, "De Brugse stadsmagistraat en de deelname van de ambachten aan het bestuur, 14de-15de eeuw", in: *De Vlaamse instellingen tijdens het ancien régime: recent onderzoek in nieuw perspectief: Symposium georganiseerd te Brugge op 18 mei 1998*, ed. W. PREVENIER and B. AUGUSTIJN (Brussels, 1999: *Miscellanea archivistica: Studia* 111), pp. 27-40.

³¹ SAB, Oud archief, Politieke oorkonden, eerste reeks, 1143.

³² SAB, Oud archief, Politieke oorkonden, eerste reeks, 1155.

were also investigated. In February 1477 the main issue raised by the rebels was the Peace of Arras of 1438. This treaty had to be abolished to end many disadvantages. The town sent the Lord of Gruuthuse, a councillor of the late duke, to Mary of Burgundy to get her permission for this cancellation. She handed over the original charter to him, with three other documents.³³ Bruges then sent an envoy to Lille “to search and retrieve the privilege containing the Peace of Arras”.³⁴ In this way, Bruges disposed of the original charters which had been preserved in the count’s treasury. The action resembles the events that had taken place in Bruges in 1411. During an insurrection the rebels had demanded that the *Calfvel* (“Calfskin”), the name used for a ducal regulation dating from 1407, should be cancelled. The duke had commissioned Diederick Gheerbode, his secretary, who managed the ducal archives, to go to Lille to retrieve the document and await further instructions. Later, this charter was transported to Bruges and handed to the deans of the craft-guilds.³⁵ By taking the original documents to Bruges, trust was established that the detested regulation was really abolished, as all official evidence of the privilege was to be destroyed.

Abolished regulations were not the only documents to be confiscated. Bruges also wished to dispose of the charters owned by the Franc of Bruges. When this area submitted to Bruges in March 1477, many documents were destroyed, as we will see later. In the last days of July 1477, Bruges also had the charter-boxes of the Franc of Bruges removed from the abbey of Ter Doest, where they were kept.³⁶ Until 29 December the documents were kept in the Bruges Belfry. On that day the Franc of Bruges finally recovered its records.³⁷ The position of this area among the Four Members was discussed again in 1488. On that occasion the men of Bruges confiscated the charters of the Franc of Bruges. According to a fifteenth-century chronicler, the documents had been stored in Reimerswaal in Zeeland. Deputies of Bruges came and confiscated the charter-box.³⁸ Possession of these documents symbolised the power of Bruges

³³ *Coutume de la ville de Bruges*, 2, nr. C, p.76.

³⁴ GILLIODTS-VAN SEVEREN, *Inventaire des archives de la Ville de Bruges*, 7 vols. (Bruges, 1871-1878), 6, p. 156.

³⁵ GILLIODTS-VAN SEVEREN, *Inventaire*, 4, p. 119. Comments on these events: V. FRIS, “Het Brugsche Calfvel van 1407-1411”, *Bulletin de l’académie royale d’archéologie de Belgique* (1911), pp. 183-274; DUMOLYN, *De Brugse opstand*, pp. 139-140.

³⁶ SAB, Oud archief, 216, stadsrekeningen 1476-1477, f. 138r.

³⁷ SAB, Oud archief, 96, Cartularium Groenenboek onghecotteerd, f. 299r-v. Comments: BLOCKMANS, *De volksvertegenwoordiging*, p. 133.

³⁸ Anon., *Het boeck van al ‘t gene dater geschiedt is binnen Brugghe sichtent jaer 1477*, 14

over the Franc of Bruges; the confiscation must therefore be considered as a profoundly symbolic action.

The confiscation of symbolic objects such as charters was not a strategy confined to the municipal authorities. The sovereign also used this method as a means to restrain his subjects and express his triumph. A telling example is the campaign Philip the Bold of 1383, to prepare the punishment of a Flemish revolt that had taken place in the previous years. All defeated towns were obliged to send their charter-boxes to Lille, where ducal officials were to examine them thoroughly.³⁹ Confiscation did not always take place on such a scale, however. In 1485, e.g. Archduke Maximilian conquered Ghent after years of struggle. On this occasion the archduke confiscated many privileges from the municipal archives.⁴⁰ After the surrender of Ghent to Emperor Charles V in 1540, the town not only was made to hand over its privileges, but also had to submit the main cartularies composed by the municipal administration. In this way the sovereign could get a hold on the collective memory of the conquered town.⁴¹

The confiscation of the records of the adversary was a strategy used by the victors in a conflict to express their triumph. The documents served as trophies which the winner proudly possessed. The most powerful party could dispose of the legal memory of the conquered and erase evidence of the balance of power that had been overthrown. By removing all the evidence of the earlier situation, the conqueror guaranteed that no authentic copy could come to light in the future. The new balance of power was permanently expressed by the new composition of the archives.

During the Bruges insurrection of 1477, the records of the adversaries were not the only ones aimed at. The leaders of the revolt also forced Ghent to hand over a written document. This was the general privilege for the county of Flanders, issued on 11 February 1477. The Bruges rebels demanded the text of this

februarii tot 1491, ed. C.L. CARTON (Ghent, 1859: *Maatschappij der Vlaemsche bibliophilen, derde serie* 2), pp. 210-211.

³⁹ Edition of the documents concerning this transport of local archives: Anon., *Chronique rimée des troubles de Flandre à la fin du XIV^e siècle: Suivie de documents inédits relatifs à ces troubles*, ed. E. LE GLAY (Lille, 1842), pp. 134-136.

⁴⁰ SAG, Oud Archief, reeks 93/G Cartularium Eerste Zwartboek, f. 34r-v. Comments: W. BLOCKMANS, "Autocratie ou polyarchie? La lutte pour le pouvoir politique en Flandre de 1482 à 1492 d'après des documents inédits", *Bulletin de la Commission royale d'Histoire* 140 (1974), p. 291.

⁴¹ M. BOONE, "Le dict mal s'est espandu comme peste fatale: Karel V en Gent, stedelijke identiteit en staatsgeweld", *Handelingen der maatschappij voor geschiedenis en oudheidkunde te Gent, nieuwe reeks* 54 (2000), pp. 55-56.

document to be rewritten so that it only referred to three instead of four Members of Flanders. According to the *Excellente cronike*, Ghent did not want to give up this document without the assurance that the town was to receive a new and valid charter in return. In the end it was decided that members of the municipal government were to take the document to Bruges to see to it that a new charter was written in accordance to the earlier agreements.⁴² Ghent town council's reservation can be explained by the fact that the general privilege for Flanders was still valid. The council wishes for a guarantee that no other privileges were 'abolished' in the process.

Later, Ghent was also afraid to transport valuable, valid documents. In the crisis of 1488, when a revolt against Archduke Maximilian broke out, Ghent seized the right to choose and install the municipal governments in the county of Flanders. The foundation for this claim was a privilege the French king had granted Ghent in January 1488.⁴³ The municipal government of Ypres did not trust this assertion and requested Ghent for an examination of this document by the aldermen of Ypres. Ghent answered that the municipal government would be willing to show the documents to deputies of Ypres, but that it was impossible to bring this very valuable charter to Ypres.⁴⁴ The transport of authentic originals was a risk the municipal government of Ghent did not want to take.

In 1477, in the end Ghent had to give in and hand over the charter to Bruges. The rebels there wished to erase every reference to the Franc of Bruges as one of the Four Members. The new balance of power had to be secured so that in the future the Franc of Bruges could no longer call upon any original and authentic document. In confiscating the original charters, confidence was expressed that the recent changes in the government could be preserved in the future.

Destroying Written Documents

During the Bruges uprisings in 1477 original charters were lifted from archives elsewhere and transported to Bruges. Some of these documents were

⁴² Anthonis de Roovere, *Excellente Cronike*, f. 183r. This is confirmed in the city accounts: GILLIODTS-VAN SEVEREN, *Inventaire*, VI, pp. 161-162.

⁴³ SAG, Oud archief, reeks 93/G: Cartularium Eerste Zwartboek, f. 55r-v.

⁴⁴ I.L.A. DIEGERICK, "Correspondance des magistrats d'Ypres, députés à Gand et à Bruges, pendant les troubles de Flandre sous Maximilien, duc d'Autriche, roi des romains etc.", *Annales de la Société d'émulation pour l'étude de l'histoire et des antiquités de la Flandre* 13 (1851-1854), p. 64.

destroyed in the town in a solemn ceremony, an act of purposeful symbolic communication.

The destruction of the Peace of Arras of 1438 was an urgent demand of the Bruges rebels. A key figure was the Lord of Gruuthuse, who was sent as an intermediary to Mary of Burgundy to help solve the tensions that had arisen in Bruges. As we have seen, Mary granted his request and handed him four documents. Once he had returned to Bruges, the Lord of Gruuthuse destroyed the Peace of Arras in a public ritual, which is described in several sources. On the morning of 7 March, Louis of Gruuthuse came to the castle (the *Burg*) of Bruges, the traditional centre of power in the town. One chronicler explicitly said that on this occasion he wore the insignia of the Order of the Golden Fleece. On his arrival, the lord entered the town hall, and there ascended the metal pulpit to address the public. This platform was decorated with a golden cloth, accentuating the solemnity of the event. The four doctors of theology, who had also been involved in the examination of the municipal records, were present to witness the ritual destruction. First, the documents involved were shown to the public. Next, they were read out in French and translated into Dutch. Finally, the climax of the event was reached: the documents were publicly destroyed. The audience was overwhelmed with joy and promised to be loyal to Mary in the future.⁴⁵ The location and the staging of the ritual are typical examples of symbolic communication; the changed balance of power was publicly proclaimed before many witnesses.

The relationship between Bruges and the sovereign was now altered, but the position of the Franc of Bruges as one of the Four Members remained a thorn in the flesh. On 20 March the Franc of Bruges was officially summoned to Bruges. According to several chroniclers, its inhabitants had decided to communicate their change in status in a symbolic way. On 22 March they attacked their own archives, destroying many documents and shouting that they wanted to be subjects of Bruges. It was said that they had also entered the episcopal courts in Bruges, where they had burnt every document concerning the Franc of Bruges.⁴⁶ It is not certain, however, if these events really took place as the sources relate them. And if they did, it is not certain that they were initiated by the people of the Franc of Bruges, since it is clear that this area continued to

⁴⁵ Anthonis de Roovere, *Excellente Cronike*, ff. 179v-180r; Despars, *Cronijcke*, 4, p. 124.

⁴⁶ Anthonis de Roovere, *Excellente Cronike*, f. 180v; Despars, *Cronijcke*, 4, p. 126; *Recueil des antiquités de Flandre de Philippe Wielant*, ed. J.J. DE SMET (Brussels, 1865: *Koninklijke commissie voor geschiedenis, eerste reeks in 4°: Corpus chronicorum Flandriae* 4), pp. 327-328.

struggle for its former status to be restored.⁴⁷ Probably Bruges itself instigated the destruction. Whatever the truth of the matter, the destruction had a strong symbolic impact. Many years later, during the revolt of 1488, the men of Bruges again destroyed records of the Franc of Bruges, this time clearly on their own initiative. The town had confiscated the area's charter-box, and on 3 April this symbolic object was put on a scaffold on the market square. The rebels publicly examined the documents, read them out and destroyed those charters that were to the detriment of Bruges.⁴⁸ In doing so, the subordinate position of the Franc of Bruges was staged violently to underline the power of Bruges.

During other insurrections similar rituals were used to visualise an altered balance of power. In 1411 an insurrection broke out in Bruges against the Burgundian Duke John the Fearless. The principal complaint of the rebels was that the *Calfvel* of 1407 should be destroyed. After much debate, the original document was handed over to the deans of the craft-guilds, who were assembled outside the town walls. First, these deans tore their seals off the charter; next, the document was destroyed. According to Despars, the craft-guilds ripped it apart with their teeth. After this ceremonious destruction, the armed craft-guilds re-entered Bruges.⁴⁹

In Ghent, on 15 February 1477 the Peace of Gavere of 1453 was destroyed, as was an agreement with Charles the Bold of 1469, which had been reached under duress. The destruction of these documents took place at a meaningful location, i.e. the *Collatiezolder* of the town hall. This was the loft where the Great Council (*Grote Raad*) of the town assembled and the new municipal government was chosen every year.⁵⁰ Just as the Peace of Arras had severely restricted the autonomy of Bruges, the documents abolished here had restricted that of Ghent. The Peace of Gavere in particular was a symbol of the duke's power over Ghent. During a previous revolt in 1467, Ghent had already demanded that this document be abolished; Charles the Bold, however, had refused to do so. The destruction of this emotionally charged document in 1477 was a symbol of the triumph of Ghent.

It is striking that the rebels called the hated charters in all three cases studied here *Calfvel*. To them, the document was nothing more than a calfskin, an

⁴⁷ BLOCKMANS, *De volksvertegenwoordiging*, p. 133.

⁴⁸ Anon., *Het boeck*, pp. 210-211; Anthonis de Roovere, *Excellente Cronike*, f. 272v.

⁴⁹ Despars, *Cronijcke*, 3, p. 227. Comments: FRIS, "Het Brugsche Calfvel", p. 262; DUMOLYN, *De Brugse opstand*, pp. 139-140.

⁵⁰ Anon., *Dagboek*, 2, p. 250.

object without any added value. This label expressed their undisguised contempt for the previous regulations. The destruction of the object symbolically underlined their disdain. Descriptions of the destruction of charters often stress that the seals were removed. By destroying all witnesses to a text, trust that the old regulations were really abolished was emphasised.

The solemn, public destruction of official documents was not a strategy used by rebels only. The sovereign also employed this form of symbolic communication when his position was strong enough. A clear example is the punishment of Ghent in 1469. On his first entry into the town, Charles the Bold had been confronted with a revolt.⁵¹ To punish the resistance, he decided to abolish the charter of Senlis, issued in 1301. This document recorded the balance of power between the sovereign and the town and prescribed the procedure for the yearly election and installation of the municipal government. Charles the Bold put a new regulation in place, restricting local influence on the municipal elections. Ghent was moreover compelled to hand over the original fourteenth-century document to the duke. On 8 January 1469 representatives of Ghent were summoned to the ducal court in Brussels. There, in the presence of many prominent persons, the charter was read out and cancelled by the Lord Chancellor. A description of this humiliating ritual was written on the back of the charter to memorise the defeat.⁵²

After a revolt against Archduke Maximilian in 1485, Ghent was forced to hand over nine privileges. On this occasion, a ceremony was staged in the ducal palace in Ghent. Members of the Council of Flanders and other prominent persons witnessed the event. The representatives of Ghent presented the documents to the archduke, who cancelled them and destroyed the seals attached to the charters. This destruction was combined with a humiliating ritual of submission: the members of the Ghent municipal government had to kneel before Maximilian, dressed in black gowns, bareheaded and barefooted. The destruc-

⁵¹ P. ARNADE, "Secular charisma, sacred power: Rites of rebellion in the Gent Entry of 1467", *Handelingen der maatschappij voor geschiedenis en oudheidkunde te Gent, nieuwe reeks* 45 (1991), pp. 69-94.

⁵² Edition of this note: Philippe de Commines, *Memoires de messire Philippe de Commines, seigneur d'Argenton, où l'on trouve l'histoire des rois de France Louis XI. & Charles VIII*, ed. D. GODEFROY and M. LENGLET DU FRESNOY, 4 vols. (Paris, 1747), 3, pp. 91-93. Comments: BOONE, "Le dict mal", p. 56. In his new edition of the charter of Senlis, M. Boone, "Het Charter van Senlis (November 1301) voor de stad Gent: Een stedelijke constitutie in het spanningsveld tussen vorst en stad (met uitgave van de tekst)", *Handelingen der maatschappij voor geschiedenis en oudheidkunde te Gent, nieuwe reeks* 57 (2003), pp. 1-46, provides a new edition of the dorsal text as well.

tion of their privileges underlined their subordination very explicitly.⁵³ Just as with the municipal rebels, at the Burgundian court, too, the cancellation of written documents was combined with disdain for the previous situation and humiliation of the adversary.

The destruction or cancellation of charters was a symbolically charged action, intended to express the changed balance of power. The strategy was used by victors in a conflict to underline their triumph over their adversaries. Quite often this annihilation was staged in a solemn ritual with prominent witnesses. The victor chose a meaningful scene of action, emphasising his power position. First, the text of the abolished charter was read and, if necessary, translated into the vernacular. Then the document was destroyed or cancelled. In destroying documents, the legal memory of the previous situation was wiped out, and newly-formed political relationships were forcefully propagated. Just as the other strategies discussed in this contribution, the destruction of charters looked towards the future; it was used to anticipate the conduct of the adversaries in times to come.

Rewriting Texts

A crucial issue in the 1477 insurrection was the status of the Franc of Bruges as one of the Four Members. The men of Bruges were very much opposed to this membership and wished to submit the area to their power. Mary of Burgundy granted this request on 30 March and confirmed it on 9 April. However, in the general privilege for Flanders issued on 11 February 1477 the Franc of Bruges was mentioned as one of the Four Members, and this privilege was still in force. The men of Bruges therefore claimed that the text of this charter should be rewritten: instead of Four Members just 'Three Members' should be mentioned. In this way, the privilege would be adapted to the altered situation. Only after this correction had taken place, Mary was allowed to swear her oath in Bruges.⁵⁴

⁵³ Jean Molinet, *Chroniques de Jean Molinet*, ed. G. DOUTREPONT and O. JODOGNE, 3 vols. (Brussels, 1935-1937: *Académie Royale de Belgique, Classe des lettres et des sciences morales et politiques: Collection des anciens auteurs Belges: Nouvelle série I*), 1, pp. 467-468. For an overview on the confiscated documents, see: BLOCKMANS, "Autocratie ou polyarchie", p. 291; ID., "Breuk", pp. 116 and 99; BOONE, "Le dict mal", p. 50.

⁵⁴ Anthonis de Roovere, *Excellente Cronike*, f. 182r.

As we have seen, the Ghent municipal government hesitated to hand over their copy of this valuable charter to the deputies from Bruges. They feared that other elements in the text would be altered in the process. Moreover, Ghent did not like the idea of Bruges expanding its power position in the county by claiming two of the four votes in the representative institution of the Members of Flanders. In the end, they did hand over the charter. On 17 April 1477 the earlier privilege was officially replaced by a new one, in a public ceremony. This time, the ritual took place on the Grote Markt, the large market square in Bruges, with the mutinous craftsmen gathered under their guilds' banners. Mary of Burgundy was personally present. First, she proclaimed several regulations she would grant Bruges by privilege. Next, the general privilege of 11 February was shown to the public and destroyed. Probably three copies of the charter were cut: the charter formerly owned by Ghent's municipal government and the copies that had been in the possession of Bruges and the Franc of Bruges.⁵⁵ Afterwards Ghent recovered the damaged document, which is still preserved in the municipal archives today. A vertical cut has damaged the charter, and the original seals have been torn from it.⁵⁶

The privilege was replaced by a new text, which, however, kept the date and place of the earlier privilege: Ghent, 11 February 1477. The new privilege was therefore strictly speaking a forgery. The French king Louis XI, who had signed the original document as a witness, had to be replaced by Jan van Kleef. Otherwise the protocol of the earlier charter remained unaltered.⁵⁷ The Bruges city accounts mention that Cornelis Berssier, clerk at the Bruges court, was paid to rewrite the text. The same person was also remunerated for reading out the privilege in public.⁵⁸ This oral publication was needed to make known the changed situation and to give it legitimacy in the town. Probably the new document was also shown to the public, as it served as a trophy, a reminder of the triumph of Bruges over the Franc of Bruges.

After the new balance of power was acknowledged, the people left the market square. The insurrection had ended and Mary was honoured as the new Countess of Flanders. This finale was celebrated with the sound of bells pealing and melodies performed by musicians in the service of the town. A few days later, on 23 April, the rewritten general privilege of Flanders and the recent regulations for Bruges were proclaimed on several locations in the town. In this

⁵⁵ BLOCKMANS, "Breuk", p. 118.

⁵⁶ SAG, Charter 706.

⁵⁷ BLOCKMANS, "Breuk", pp. 119 and 126.

⁵⁸ Edition in: GILLIODTS-VAN SEVEREN, *Inventaire*, VI, p. 162.

way the entire population could witness the changes that had occurred.⁵⁹ These public rituals were necessary to confirm the text's trustworthiness.

The power of Bruges over the Franc of Bruges was communicated using several media. One of them was the capture and destruction of the records of the area. Another important means to ensure its submission was the careful removal of any written references to the Franc of Bruges as one of the Four Members. Apparently it was not sufficient to correct the existing charters; all existing documents with the offensive reference had to be cancelled. This was done in a public ritual. In the presence of prominent witnesses the official copies of the earlier regulations were destroyed. Then, a new privilege was proclaimed. The triumph of the Bruges rebels was celebrated with festivities in the town. The careful staging of the ritual had to express the trust that the Franc of Bruges was finally subordinated to Bruges.

The Copying of Documents

During and after the Bruges insurrection, several old and new texts were copied. First, copies of texts were made by the Franc of Bruges, the loser in the conflict. Although the area lost its status as one of the Four Members on 20 March 1477, it managed to exact some profitable regulations from Mary by the end of March. According to the author of the *Excellente cronike*, the Franc of Bruges had four copies of these privileges made, three of which were distributed to friends in Ghent, Bruges and Ypres. In this way, they could prove that they were still recognised as the fourth of the Members of Flanders.⁶⁰ However, this action proved to be unsuccessful, as the Franc of Bruges came off worst and had to hand in these four copies and their copy of the general privilege for Flanders issued on 11 February 1477. Before the charters were handed in, however, the Franc of Bruges copied them, according to its accounts "for the future, as we had to hand in the original documents".⁶¹ This copy had to preserve the text of lost documents for future use, if the tide were to turn. The area trusted the texts of the lost regulations. Even if the original, valid charters were destroyed, the transcriptions might still be of use. By copying their text, the memory of the previous balance of power was kept alive in the hope that the Franc of Bruges might benefit from it in days to come.

⁵⁹ Anthonis de Roovere, *Excellente Cronike*, f. 184r.

⁶⁰ *Ibid.*, f. 182r.

⁶¹ The account is edited in: BLOCKMANS, "Breuk", p. 118.

The people of Bruges triumphed in the crisis of 1477. During a short interval of three months they managed to have many privileges granted to them and to subdue the Franc of Bruges. In May 1477 Jan Weyts was paid by the municipal government to put together a cartulary “*in fransine*” with copies of all the privileges issued between February and April 1477.⁶² The result of his work is the cartulary known as *Zwartenboek*, which is still preserved in the municipal archives. It is a very carefully made manuscript, with rubrics and decorated initials. Alternating red and blue capitals structure the text and refer to the various points mentioned in the privileges. A table of contents helps the reader to find his way in the codex. The cartulary opens with the privileges of 11 February 1477. It also contains the regulations of 30 March, the end of the Franc of Bruges as one of the Four Members issued on 9 April, the regulations for Bruges proclaimed on 17 April, and an official pardon for the insurrection. Other texts considering the Franc of Bruges follow.⁶³ The events of 1477 also resulted in other Flemish towns, such as Ghent and Ypres, producing cartularies, which were equally called *Zwartenboek*; the book of Bruges does not stand alone. The creation of the Bruges manuscript clearly shows the importance of the privileges of 1477 to counteract the ducal urge for centralisation. The manuscript kept alive the memory of the victory of the Flemish town and expressed the confidence that this new balance of power would be observed in the future.

Another example of a cartulary produced after a conflict is the *Boek der privilegien van Gent*, preserved today in the Österreichische Nationalbibliothek in Vienna.⁶⁴ In this manuscript the privileges and customs of Ghent and its rural district are written down. The Peace of Gavere of 1453 and its implementation form the final pieces in this collection of texts. Dhanens has shown that this magnificent codex was produced when Ghent submitted to Philip the Good in 1453. She presumed that the manuscript was created c. 1458 as a present for the Burgundian duke; it was probably presented to him during his solemn entry into the town that year. With this gift, Ghent wanted to beg the duke for forgiveness and emphasise the town’s obedience. It was also meant to put him in

⁶² SAB, Oud archief, 216, Stadsrekening 1476-1477, f. 135r.

⁶³ SAB, Oud archief, 96, Cartularium Zwartboek.

⁶⁴ MS Vienna, Österreichische Nationalbibliothek, 2583.

the right mood for future negotiations.⁶⁵ The cartulary memorised defeat, but did not fail to summarise the most important concessions of the duke.

The creation of such a memorial was not a typically municipal strategy. Sovereigns were also tempted by the idea of visualising their triumph over their adversaries. When the Flemish count Louis of Nevers had crushed a rebellion of the coastal region in 1328, he issued new privileges for every town involved in the insurrection. All of these new regulations were copied in a luxurious cartulary, with a copy of the documents he had confiscated.⁶⁶

The production of a cartulary was a means to keep the memory of a new balance of power alive and to express trust in this changed constellation. Most of these manuscripts were made with care; they were very lavish codices. The owners of such manuscripts could use them to flaunt and to show off their triumph over their adversaries.

After 1477, the privileges issued by Mary of Burgundy received much attention. Whenever the circumstances demanded it, the collection of texts was again transcribed. Possibly the *Zwartenboeck* was the exemplar of a manuscript produced c. 1479. In the sixteenth century this codex belonged to Joos de Damhouder, a prominent jurist living in Bruges. The manuscript contains the privileges of 1477 in the same order as *Zwartenboeck*. These privileges are preceded by copies of older texts, dating from 1304 and 1414, and a text concerning the rank of the smaller towns in the Franc of Bruges. As Van den Auweele has shown, all texts can be connected, even if indirectly only, with the achievements of 1477; they refer to the previous history of certain measures taken then, more in particular those concerning the election of the municipal government.⁶⁷ The presumed date of the first copy of *Zwartenboeck*, AD 1479, is no coincidence. In that year the Flemish towns began to realise that Archduke Maximilian was starting to act in a very authoritarian manner and wanted to

⁶⁵ E. DHANENS, "Het boek der privilegiën van Gent", in: *Actum Gandavi: Zeven bijdragen in verband met de Oude Kunst te Gent* (Brussels, 1987: *Mededelingen van de Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België* 48), pp. 103-104. The author also discusses other copies of the town's privileges that were made on this occasion.

⁶⁶ MS The Hague, Koninklijke bibliotheek, 75 D 7. Comments: F. BLOCKMANS, "De bestraffing van den opstand van Brugge en Westelijk-Vlaanderen in 1328", in: *Beknopte handelingen van het vijftiende Vlaams philologencongres, Gent 29-30 Maart 1940* (Ghent, 1940), pp. 41-42.

⁶⁷ MS Lebbeke, private collection J.M. Dauwe, 143. D. VAN DEN AUWEELE and M. OOSTERBOSCH, "Vergeten handschriften", in: *Serta Devota in memoriam Guillelmi Lourdaux: Pars Posterior: Cultura Mediaevalis*, ed. W. VERBEKE et al. (Leuven, 1995: *Mediaevalia Lovaniensia, Series I, Studia* 21), pp. 274-284.

weaken the concessions made in 1477.⁶⁸ From April 1480 onwards, the Members of Flanders campaigned intensively to command respect for their privileges.⁶⁹ According to the chronicler Despars, they made granting ducal requests for financial aid dependent on the assurance that the privileges issued in 1477 should continue to be respected.⁷⁰ Possibly there was a need to transcribe the Bruges privileges and to refer to their history.

The importance of the *Zwartenboeck* as the official collection of the privileges issued in 1477 is also clearly shown by events of 1488. In February 1488 a serious revolt against Archduke Maximilian broke out in Bruges. The representatives of the Nine Members drew up a list of complaints. One of their demands was that every member should possess a copy of the points written down in the *Zwarte boucxkin*.⁷¹ This claim shows that the measures taken in 1477 were considered decisive for municipal identity and the political autonomy of the towns against central government. The Flemish towns very often referred to these ‘constitutions’ to protest against the urge for centralisation expressed by the sovereign. During the conflict between Ghent and Emperor Charles V in 1540, e.g. Bruges used these texts to justify its autonomy.⁷²

The production of cartularies and the transcription of important documents were means to enhance trust in regulations. Every text copied was a memorial, either expressing a new balance of power or remembering a lost charter. Copying looked to the future, expressing confidence that the texts could be of use later. Besides, the codices were used to show the triumph of the victor.

Summary

During the first months of 1477, the urge for centralisation which had been shown by Duke Charles the Bold was temporarily checked. At the same time, the power of Bruges was increased by the submission of the Franc of Bruges. Various strategies were employed to express the new balance of power and to engender trust in the new constellation. The written word played an important part in this process; written texts were used both as a means to convey suspicions

⁶⁸ BLOCKMANS, “Autocratie ou polyarchie?”, p. 260.

⁶⁹ BLOCKMANS, *Handelingen*, Nos. 96, 98, 99, 100, 103, 105, 113; BLOCKMANS, *De volksvertegenwoordiging*, pp. 326-327.

⁷⁰ Despars, *Cronijcke*, 4, p. 200.

⁷¹ DELEPIERRE, “Marie de Bourgogne”, p. 231.

⁷² BOONE, “Le dict mal”, pp. 31-63.

and to create trustworthy foundations for the future. Written documents were examined, confiscated, produced, rewritten and even destroyed in public rituals.

The strategies used were not typical of Bruges, nor can they be seen as specifically municipal methods for creating trust. They were quite traditional; they were in general use as means to communicate the status of the strongest party during and after a conflict. Sovereigns often used the same methods when the balance of power was in their favour. Written documents were important means of communication, partly because of their contents, but also as symbolic objects. Charters often functioned as trophies; they were used by the victor to show off his triumph. In rituals, documents were shown and read out in public. By destroying charters the disdain for the content of the abolished texts was expressed very explicitly: documents were in a sense reduced to the calfskin they were written on. In such rituals of destruction the charters formed a symbol of the defeated adversaries; their annihilation was meant to humiliate them. Often a conqueror also confiscated the records of the loser in a conflict. He could wipe out every trace of the harmful regulations of the past. He changed the archival memory of the institution he had vanquished. Occasionally it was important to destroy every authentic charter referring to the previous situation. The keeping of the records of the vanquished by the victor had important symbolic implications. For rebels, the publication of the records was an important means to control events during an insurrection. By making the contents of archives known in public, trust in the new authority could be produced more easily. Finally, the copying of documents was an important strategy to engender trust. Especially the production of cartularies seems to have been important. Collections of privileges were very important juridically. However, they also functioned as a memorial of the recent triumph. Very often these manuscripts were carefully and lavishly produced. They were meant to display the recently redressed balance of power.

During the Bruges insurrection of 1477, the contents of the documents were very important. But written texts were also used as symbolic objects to communicate the triumph of the conqueror and to emphasise the defeat of the vanquished.⁷³

⁷³ This article was written with the support of the Bijzonder Onderzoeksfonds van de K.U. Leuven.

Part VI:
Possibilities of Trust in Writing

The Vikings' Trust in the Written Word

TERJE SPURKLAND

In the Old Norse literate tradition as it manifests itself in the thirteenth century, the Viking Age represents a distant time of adventures, when young chieftains went on raiding expeditions to foreign lands and returned home with riches, glory and fame.¹ The Viking expeditions were, however, more than that: they have to be regarded as the last of the great migrations in Europe. As such they represented much more than just raiding and looting. The migrating Norsemen came in contact with cultures unknown to them before they set out on their sea voyages, and sometimes these cultures provided them with new inspirations. Scandinavians had, however, moved around in Europe long before the Viking age. The borders of the old Roman Empire had not been obstacles to contact. Roman merchants went north to trade and Norsemen went south, maybe to serve as soldiers in the Roman armies and, in the Migration Age, to take part in the invasions of regions under Roman sway.²

As early as the first or second century AD, Scandinavia got its first alphabetic script – that of runes. The invention of runic script was to a large extent inspired by Roman script; several runic characters may be direct copies of Latin

¹ I use the word 'literacy' primarily to refer to the Latin-based book culture with which the Scandinavians became acquainted through their contacts with insular and Carolingian Christians during the Viking Age. The indigenous Scandinavian 'runacy' may be understood as the counterpart of extraneous 'literacy'.

² Cf. *The Transformation of Frontiers from Late Antiquity to the Carolingians*, ed. W. POHL, I. WOOD and H. REIMITZ (Leiden, 2001: *The Transformation of the Roman World* 10), and U. NÄSMAN, "The Justinian era of South Scandinavia: An archaeological view", in: *The Sixth Century: Production, Distribution and Demand*, ed. R. HODGES and W. BOWDEN (Leiden, 1998: *The Transformation of the Roman World* 3), pp. 255-278, which also deals with the preceding centuries.

the Norwegian Viking Age countryside. It is, however, important to stress the fact that books were among the items the Vikings came across when they raided churches and monasteries. The book cover from Hjørundfjord is not the only representative of this kind of evidence of Scandinavians' early encounter with book culture. Book covers have also been discovered in other Viking Age deposits.⁷

True, these finds tell us only something about Viking contacts with the culture of the book, and not too much about trust in writing. There are, however, cases that suggest that the Vikings knew how to appreciate spectacular illuminated manuscripts – even if not for reading or contemplation then at least for their monetary value. They knew that people were willing to pay money to get burgled books back. The Codex Aureus from Canterbury, a richly illustrated gospel book from the mid-eighth century now in Stockholm, was looted by Vikings and held for ransom. On one leaf there is a mid-ninth-century note in Anglo-Saxon made by a certain earl Alfred, telling that he and his wife ransomed the book from heathen warriors by pure gold.⁸

There is other written evidence of the encounters with book culture by Vikings from a preliterate society. In the first half of the ninth century, Louis the Pious (778-840) sent his missionary Ansgar (801-865) to Denmark and Sweden in one of the first serious attempts at converting the Scandinavians. Ansgar's mission suffered several setbacks. The author of his *Life*, Rimbert, reports that in 845 the Swedish people revolted, expelled the newly consecrated bishop of Sweden and plundered the houses of the clergy. One of those who took part in these atrocities later met with an unfortunate series of accidents. The father of his house consulted the local soothsayer about the reasons. He was told that his son had in his possession items consecrated to the God of the Christians, and that he could not be freed from his misfortunes as long as these things remained in his house. Then the father remembered that a certain book had been part of the booty, and stricken with horror and fear, he reached the conclusion that this book was the cause of their sufferings. Unfortunately, there was no Christian priest around who might help. He brought the book out, in the presence of all who lived there, but no one was willing to take the book in. He then fastened it

Oxford, New York, 1978).

⁷ See WAMERS, *Insularer Metallschmuck*.

⁸ MS Stockholm, Royal Library, A 135, f. 11r, ed. H. SWEET, *Anglo-Saxon Reader*, ed. D. WHITELOCK (Oxford, 1967), p. 205. Cf. B. BISCHOFF, *Paläographie des römischen Altertums und des abendländischen Mittelalters*, 2nd edn. (Berlin, 1986: *Grundlagen der Germanistik* 24), p. 275.

carefully to a fence, announcing that whoever wished to, might take it. One of the Christians took the book and carried it to his own house. “He later showed such faith and devotion that with us he learned to say the Psalms by heart without knowing how read them” (“*memoriter sine litteris didicerit*”).⁹

This story, as Rimbert tells it, clearly shows both trust and mistrust in the written word. To the devout Christian, the book was a divine object; for the unlettered heathen the book was associated with magic bringing misfortunes. The incident is supposed to have taken place in Birka, the most important Swedish town at this time, and in Birka archaeologists have in effect unearthed a book cover mount of the same type as that was found in Norway.¹⁰ So there can be no doubt that the citizens of the Viking town of Birka had been in contact with books.

If we are right in assuming that already at the outset of the Viking Age the Scandinavians had come across literate book culture in some way or another, then the question merits posing whether this cultural meeting had any impact on their execution of the vernacular script – the runes.

Most typical of the Viking Age runic inscriptions is the erected stone, commemorating the deceased. The classical text is “X set up this stone in memory of Y”, where X might be either one or several persons. Roar, for example, set up a stone in memory of his father at Fåberg, not far from Lillehammer in south-eastern Norway (N59):¹¹

ruar:raisti:stain:p(a)n(o):(aft)ir:a(lu)i:faþur:sin

Hróarr erected this stone in memory of Ólvi, his father

There is often an addition to this set formula, stating something about the kinship between the erector(s) of the stone and the deceased. The inscription may also include a statement about the circumstances surrounding the death, or some characterisation of the deceased.

⁹ Rimbert, *Vita Anskarii*, c. 18, tr. W. TRILLMICH in: *Quellen des 9. und 11. Jahrhunderts zur Geschichte der Hamburgischen Kirche und des Reiches*, ed. W. TRILLMICH and R. BUCHNER, 5th edn. (Darmstadt, 1978: *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters* 11), p. 54: “*Qui postea magnae fidei et devotionis extitit, ita ut psalmos quoque apud nos postea memoriter sine litteris didicerit*” (“He later showed such faith and devotion that with us he learned even the Psalms by heart without education”).

¹⁰ WAMERS, *Insularer Metallschmuck*.

¹¹ N+number indicates the edition of the inscription in *Norges Innskrifter med de yngre Runer (NiyR)*, ed. M. OLSEN *et al.*, 1- (Oslo, 1941-) (six volumes to date).

There has been discussion among scholars about possible literate influences on rune carving as early as the Viking Age. In a description of the Snoldelev stone, from the island of Sjælland in Denmark, dated to the ninth century, the Danish runologist Erik Moltke is disposed to see "a faithful runic imitation of a manner of writing found in Merovingian and Carolingian manuscripts and charters from the reigns of Charles Martel, Pippin the Short and Charles the Great".¹² The logic behind this contention is, that documents in Merovingian or Carolingian script often have an opening line of elongated slender characters, followed by lines with a stubbier, ordinary script. And it is exactly this type of layout we see on the Snoldelev stone. Is this design of the runic text accidental or was it intentional? There is much space on the stone, and there are therefore no clear practical reasons for the two lines being so different in shape. The only practical motivation might be that it was the intention of the carver to express himself in just one line. When, having started his work, he discovered that the stone he had chosen was too short, there was after all not enough room towards the edge for a new line quite as wide as the first one. Most scholars today are, however, sceptical of the assumption that the layout of the runic inscription on the Snoldelev stone is an imitation of manuscript writing.¹³

There is, however, more convincing evidence of manuscript influences on the layout of rune stone inscriptions dating from the tenth century. One of them is the most famous Jelling stone II, from the island of Jutland in Denmark.¹⁴ This stone is supposed to have been set up in the 980s. It is commonly accepted that the whole layout of the stone, the unification of ornament and text, is inspired by the layout of contemporary illuminated manuscripts.¹⁵ Most conspicuous is

¹² E. MOLTKE, *Runes and Their Origin: Denmark and Elsewhere* (København, 1985), p. 179.

¹³ "In der Inschrift von Snoldelev die Imitation einer merovingischen oder karolingischen Handschrift zu erblicken, vermag ich ebenfalls nicht" (T. BIRKMANN, *Von Ågedal bis malt: Die skandinavischen Runeninschriften vom Ende des 5. bis Ende des 9. Jahrhunderts* (Berlin, 1995: *Ergänzungsbände zum Reallexikon der Germanischen Altertumskunde* 12), p. 348).

¹⁴ Its inscription reads: "King Harald commanded this monument to be made in memory of Gorm his father and in memory of Thyre his mother – that Harald who won for himself the whole of Denmark, and Norway, and made the Danes Christian" (tr. after MOLTKE, *Runes and their Origin*, p. 207).

¹⁵ Cf., e.g. L. JACOBSEN and E. MOLTKE, *Danmarks Runeindskrifter*, 2 vols. (København, 1941-1942), p. 78; R. BROBY-JOHANSEN, *Danmarks ældste Maleri: Et Tusindårsminde* (København, 1945), p. 15; W. HOLMQVIST, "Viking art in the eleventh century", *Acta Archaeologica* 22 (1951), pp. 1-56, at p. 1; A.E. CHRISTENSEN, "The Jelling monuments", *Mediaeval Scandinavia* 8 (1975), pp.7-20.

perhaps the horizontal orientation of doubly framed inscription lines. Normally, rune stone inscriptions were placed vertically on the stone.

We are now dealing with an inscription from a period for which there is no doubt that the Vikings were familiarized with the literate book culture. Fifty years before of the setting up of the Jelling stone, the Norwegian king Harald Fairhair had sent his son Håkon to England to be fostered at the court of Æthelstan.¹⁶ When Håkon returned to Norway to become king in the 930s, there is every reason to believe that he had been instructed in the art of reading and writing Roman script. He may even have had some knowledge of the Latin language. Furthermore, in the middle of the tenth century, in York, Scandinavian kings and chieftains minted coins, and occasionally the text on these coins is old Scandinavian in Latin lettering.¹⁷ It is therefore theoretically possible that the author of the runic inscription on Jelling II was inspired by manuscript layout when he set out to work.

One should, however, be careful to claim that the occurrence of horizontal lines is evidence of manuscript inspiration. There are examples of rune stone inscriptions with horizontal lines which cannot easily be ascribed to the influence of Roman script. The Swedish Möjbro and Björketorp stones, dating from 500 AD and the last part of the seventh century respectively, also have horizontal lines. Another good example is the inscription on the Rök stone, also from Sweden, but dating from the ninth century.

Another graphic characteristic for many Viking Age rune stones is the framing of lines. We see it on the Jelling stone, where there is a double framing. The ninth-century Snoldelev inscription also has a frame, and the Rök inscription also has lines in frames. One should expect that the main purpose of framing was to regulate the shape and the height of the individual characters. There are a few examples of framed lines from the Proto-Norse period (Möjbro), and in these cases framing must have had a practical explanation. During the Viking Age, the custom of framing becomes quite normal. There is as yet, however, no clear connection between horizontal orientation of runic lines and framing. There are several examples of framed vertical lines. If both framing and the horizontal orientation of the lines are considered as indications of manuscript

¹⁶ William of Malmesbury, *Gesta regum Anglorum*, ed. W. STUBBS, 2 vols. (London, 1887-1889: *Rolls Series* 90), 1, p. 149. Cf. F. STENTON, *Anglo-Saxon England*, 3rd edn. (Oxford, 1971: *The Oxford History of England* 2), p. 349, with arguments for accepting this twelfth-century notice.

¹⁷ L.H. OLSEN, *Med fjærpenn og pergament: Vår skrifkultur i middelalderen* (Oslo, 1990), p. 73.

influence on the layout of rune stone inscriptions, it is peculiar that one of these characteristics so often occurs independently.

Sometimes this lack of congruence might have a practical explanation. The Rök stone is an erected stone measuring 3.32 m. in height. When the inscription was carved into the stone, the carver had either to stand on a ladder to reach to the top of the stone, or he could carve the inscription before he raised the stone, while it was lying down. In that case, what had been a vertical line orientation would have become horizontal, and the layout of the inscription after the stone had been set up might remind us of a manuscript leaf.

It is important that there are very few erected rune stones with horizontal lines dating from the eleventh century, when the knowledge of manuscript writing and book culture had begun to take root in Scandinavia. If horizontally oriented runic inscriptions are evidence of inspiration from manuscripts, it is strange that we do not see more of it in post-Jelling runic inscriptions. On the other hand, framing became a common characteristic of Viking Age rune carving, quite independent from the orientation of the lines. Our inference must therefore be that rune carvers in preliterate Scandinavia may have been inspired by manuscript lay-out in their work; the proof of such influence, however, is inconclusive.

In Rimbert's *Life* of Ansgar there is another story about the Vikings' attitudes towards writing, and in this case we find incontrovertible evidence of trust in writing. During his first visit in Birka in 830, Ansgar was well received by the Swedish king Björn, and was given permission to preach. After staying there a year and a half, Ansgar returned to report to the emperor on his achievements:

When the aforementioned servants of God had spent another half year with them, and had obtained the object of their mission, they returned to his Majesty the Emperor with letters (?) from the King's hand, modelled after their [i.e. the Swedes'] own custom.¹⁸

The key words in this sentence are "*cum litteris more ipsorum deformatis*". *Litteris* would normally signify 'letters' in the sense of 'epistles', but the word could also suggest 'characters'. *Deformatis* could either have a negative meaning, 'disfigured, mutilated, misshapen', or it could have a more neutral meaning, 'formed, modelled, shaped'. Latin dictionaries give both meanings. If *litteris* is

¹⁸ Rimbert, *Vita Anskarii*, c. 12, p. 42 ("Peracto itaque apud eos altero dimidio anno, prae-fati servi Dei cum certo suae legationis experimento et cum litteris regia manu more ipsorum deformatis ad serenissimum reversi sunt augustum.").

referring to characters that were “*more ipsorum deformatis*”, the denotation might be ‘runes’. It is most likely that Rimbert would characterise runes as ‘disfigured’ characters. If the meaning of *litteris* has to be ‘epistles’, however, then the meaning of *deformatis* could be neutral.¹⁹

Rimbert might have had literate models for the expression *cum litteris deformatis*. In his Second Letter to the Corinthians (II Cor 3, 7), Paul refers to Moses’ tablets of stone and their texts as follows:

... quod si ministratio mortis litteris deformatata in lapidibus fuit in gloria ita ut non possent intendere filii Israhel in faciem Mosi propter gloriam vultus eius quae evacuatur ...

... but if the ministration of death, written and chiselled in letters on stone tablets, was glorious, so that the children of Israel could not steadfastly behold the face of Moses for the glory of his countenance ...

In this context the meaning of *litteris* undoubtedly is ‘characters’ and *deformatata in lapidibus* must with equal certainty be understood as ‘chiselled’ or ‘carved in stones’. Could it be that Rimbert was acquainted with the words of St. Paul to the extent that he reproduced them in his own writings? If Rimbert used the expression *litteris deformatis* with the words of St. Paul in mind – “*ministratio mortis litteris deformatata*” – then the translation of his words “*cum litteris regia manu more ipsorum deformatis*” necessarily must be “with characters from the King’s hand carved after their [i.e. the Swedes’] own custom”. And then there should be no doubt that Rimbert is referring to runes, and that it was runic inscriptions Ansgar brought with him to the emperor.²⁰

If this is the case, then the pressing question is: why should the missionaries bring with them a message carved in runes to the emperor? The emperor would not be able to read it, nor would Ansgar and his men. There may have been some Scandinavians in the company of Ansgar who could interpret the inscriptions, or there could have been Scandinavians at the court of the Emperor who could read runes. There is, however, a third possibility. The letters from the Swedish King to the Emperor were not read at all, and they had only a symbolic function. The missionaries told the Emperor what they had experienced in Swe-

¹⁹ J.F. NIERMEYER, *Mediae Latinitatis Lexicon Minus* (Leiden, 1984), s.v. gives only the neutral meaning of the verb *deformare*, ‘to form’. His only instance of the word, however, is this passage from Rimbert. And there the argument becomes circular.

²⁰ My colleague Jan Schumacher drew my attention to these similarities in wording between St. Paul and Rimbert.

den, and reported what the King had carved in his letter. The message was transmitted orally, and the tangible letter functioned only as a symbol or a verification of what they reported was true. It is commonly held that in the early Middle Ages the act of reading implied reading aloud, not silent reading.²¹ When a letter was brought to a person, it was untypical for the recipient to read it himself; he had someone to read it aloud to him. In the case of Ansgar and the runic letter, Ansgar could just as well report to the Emperor the contents of what the Swedish king had written to him.

There is every reason to believe that this symbolic letter was not as weighty as a rune stone, as there were other artefacts apart from stones available for rune carving. Archaeology therefore has corroborated this assumption. During excavations of the ninth-century Viking town of Hedeby in the south of Jutland, in Denmark, archaeologists came across wooden sticks with runic inscriptions very much similar to the rune sticks dug up in the medieval towns of Scandinavia, and in Norway in particular.²² Despite great difficulties in reading and interpreting these inscriptions, the Norwegian runologist Aslak Liestøl suggested that the most interesting of them (Hedeby I) may deal with barter transactions in which shields and otter hides were traded:

A: rabi:utlfR:utufR:sati:auriki:itarku:in:aurik:salti:utlfi:utur

Let Oddulf read (this). Oddulf sold shield to Eyrik and Eyrik sold otter (hide) to Oddulf.²³

If the interpretation of Liestøl is correct, we have an example of runic inscriptions used in trade and commerce 300 years before inscriptions of this kind proliferated in the medieval Scandinavian towns. Of the same type is a rune stick from the eighth- to ninth-century stratum of Staraja Ladoga, the principal market of northern Russia in the early Viking period, before the rise of Novgorod and Kiev. If rune letters like those we know from the medieval towns of Scandinavia existed in the early Viking Age, then, according to Liestøl, "there must have been a group of people who could make use of such letters, people who considered it worth while to learn runes and to apply their knowledge. And such a group must have formed a stable social element, well able to keep a liter-

²¹ A modern classic is P. SAENGER, *Space between Words: The Origins of Silent Reading* (Stanford, 1997).

²² A. LIESTØL, "The literate Vikings", in: *Proceedings of The Sixth Viking Congress 1969*, ed. P. FOOTE and D. STRØMBÆK (Uppsala, 1971), pp. 69-78.

²³ LIESTØL, "The literate Vikings".

ary tradition alive”.²⁴ Liestøl finds no reason to doubt that Rimbert’s expression “*litteris more ipsorum deformatis*” refers to runic inscriptions of the same kind as those found in Hedeby. If my interpretation of Rimbert’s expression is correct – “characters carved after their own custom” – then Liestøl’s argument is sustained. There is, however, also a possibility that the writing was done on wax tablets.

Whether the runes were chiselled on rune sticks or wax tablets is not the question at issue, however. The point is that both Rimbert’s *Life* of Ansgar and archaeological finds from Hedeby show that the Vikings made use of runes and runic inscriptions not only for texts commemorating their deceased on erected stones, but also for letter-writing and communication at a distance. We know that the custom of setting up rune stones goes back to the oldest period of runic script. How far back is it reasonable to trace distance correspondence in runes?

There are different opinions among scholars about the function of runes and runic inscriptions in the oldest times, and about the incentives for the creation of the runic script. It has been maintained that rune carving was a very restricted activity for a specialist elite, and did not function as written communication in a modern sense of the expression.²⁵ Others argue that the runic materials left from the Proto-Norse period – inscriptions on rune stones, signatures and expressions of cults and magic on artefacts – is not representative.²⁶ Runes were invented to be cut in wood. The shape of the characters is a clear indication of that: they show vertical and sloping lines, no horizontal lines that could go against the grain of the wood. It is assumed that, from the outset, wood was the predominant writing material for runic script. We do not have many Proto-Norse runic inscriptions in wood, however, because wood is not as durable as stone or metal. But lack of evidence does not necessarily mean lack of existence. This question obviously cannot be settled; it will always remain a matter of doubt or belief. We may be on safer ground if we suggest that during the Viking Age, if not before, runes and runic inscriptions seem to have been used in a way that resembles letter writing or communication over long distances.

So what was the Vikings’ trust in writing? If one can define *trust* as “a firm belief in the reliability or truth or strength etc. of a person or thing; the state of being relied on; a person or thing confided in”,²⁷ I would say that the Vikings

²⁴ LIESTØL, “The literate Vikings”, p. 74.

²⁵ K. DÜWEL, *Runenkunde* (Stuttgart and Weimar, 2001), pp. 179–180.

²⁶ MOLTKE, *Runes and Their Origins*, p. 32.

²⁷ *Concise Oxford Dictionary of Current English* (Oxford, 1990), s.v.

confided in the written manifestation of the word primarily in the shape of runes. The media for rune carving were stone for commemoration, artefacts (weapons, utensils and ornaments) for signatures or expressions of cult or magic, and pieces of wood for everyday messages. During the Viking Age, the migrating Scandinavians came across books and literate script culture. To begin with, books must have appeared exotic to them. It did not last long, however, before the mere existence of books in their surroundings made an impact on the materializing vernacular script. Sometimes conceptions of book pages may have influenced a rune carver making sketches for a new rune stone inscription. The idea of communication at a distance through runes may furthermore have been introduced because of the Vikings' acquaintance with literate letter correspondence. The immediate consequence of the cultural meeting of vernacular runes and Roman script may therefore have been that the Scandinavians' trust in their own vernacular writing increased during the Viking Age.

Trusting Writing in Medieval Scandinavia

ARNVED NEDKVITNE

Trusting Writing is the title of a chapter in Michael Clanchy's *From Memory to Written Record*.¹ His focus is on charters giving a legal title to land and other rights; he discusses why these documents were often distrusted, and what was done to make them more trustworthy. The background to Clanchy's discussion is that of the new Norman rulers of England, who demanded titles to property to be written. In the twelfth century this created a rush to get such titles, and many of them were forged. Apart from the prevalence of forgery, there were also other reasons for distrusting written evidence in this century. The use of writing was growing strongly in the kingdom's administration, in jurisdiction and in other fields, but it lacked the authority of tradition. In the thirteenth century written procedures had become routine, and methods were developed to expose forgeries. 'Trusting writing' was mainly a problem in the initial phase of the transition from orality to administrative literacy, which in England occurred in the twelfth century.

In Scandinavia, the subjects' trust in writing has hardly been discussed. In the earliest period for which we have evidence, writing is commonly seen as an instrument of power used by Church and state, and it has been assumed that the subjects accepted writing because they had no choice. Clanchy's discussion shows that it is fruitful to see the introduction of writing from the subjects' point of view. We need to ask whether they really trusted writing, or whether they distrusted writing and only accepted it because the authorities obliged them to do so.

¹ M.T. CLANCHY, *From Memory to Written Record*, 2nd edn. (Oxford, 1993), pp. 294-327.

In this contribution, I would like to discuss some of the evidence for the emergence of trust in writing which took place, albeit slightly later than in England, in Scandinavia. It is not my intention to provide a full comparison of Scandinavian with English developments. Nor can I claim that the Scandinavian evidence is in some ways unique. Parallels elsewhere abound, as the perusal of the recent literature on medieval communication makes clear.² I have consciously chosen to concentrate on a few examples from the Scandinavian Middle Ages, in the hope that they may prove illuminating for the general study of trust in writing in the Middle Ages.³

Scandinavian sources are particularly rich when it comes to the pre-literate, oral culture of laymen, and are suited to shed light on a particular aspect of this problem. Why did Scandinavian laymen put their trust in oral or written communication? Did this create problems in the transition from orality to literacy in the period 1100-1400?

Correspondence: Trusting the Message

The most elementary form of written communication is that of letters sent between two persons. The contents of such messages had also been transmitted in the pre-literate period. The sagas describe several diplomatic missions in which only oral communication was used. King Olaf Haraldsson of Norway (reigned 1015-1030) once sent his marshal (*stallari*) Bjorn on an important peace mission to the Swedish king. The first leg of the journey was to take him to Earl Ragnvald, who ruled western Sweden. King Olaf gave his ambassador a sword and a gold ring "which Earl Ragnvald gave me this summer ... these objects he will recognize". Bjorn was to ask for the earl's support in the mission to the Swedish king. When Bjorn came to the earl, he presented the two objects or tokens as instructed. He was recognized as King Olaf's ambassador, and his oral message was accepted as King Olaf's words. On the next and most difficult leg of the journey to the Swedish king, the Norwegian ambassadors received a new token from Earl Ragnvald's wife to the Swedish king's daugh-

² Cf. M. MOSTERT, "A bibliography of works on medieval communication", in: *New Approaches to Medieval Communication*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1), pp. 193-318.

³ A fuller account may be found in A. NEDKVITNE, *The Social Consequences of Literacy in Medieval Scandinavia* (Turnhout 2004: *Utrecht Studies in Medieval Literacy* 11).

ter; she helped them to see her father.⁴ Trust in the oral message was created in part through symbolic objects, but above all through personal contacts between people who knew and trusted each other. This description was written by the Icelandic historiographer Snorri Sturluson *c.* 200 years after the event. But there is no reason to doubt that Snorri here describes pre-literate forms of communication which still existed in his own time, *c.* 1230.

According to Snorri, King Olaf had at the same time received a letter from King Canute (Knut) in England, demanding that Olaf take Norway as a fief from Canute. The ambassadors from England first delivered their message orally, then handed over sealed letters, "and they said exactly the same".⁵ King Canute communicated with his fellow kings in a 'modern' way, combining oral and literate modes of communication in a way that created trust. The messenger carried letters with the seal of King Canute; the seal created trust that the letters really came from Canute. We must assume that the seals closed the letters, so that the messenger could not read them. He was nevertheless able to recite the content of the letters by heart; this made the recipients trust that he was really King Canute's messenger.

This combination of orality and literacy continued until the end of the Middle Ages. A detailed instruction has been preserved for a messenger, whom the captain of Akershus castle near Oslo sent to the king in Copenhagen, in 1535. When the messenger was received by the king, he was to hand him a letter, which the sender assumed the king would read immediately. "When the king has read the letter he will no doubt ask if you have been instructed to give further information". Then the messenger was to inform the king orally about the treacherous activities of the Archbishop of Nidaros. The latter information was too sensitive to be included in a letter.⁶ Trust in the letter here depended on the seals. In the letter, the captain evidently had written that the messenger had additional information; this created trust in the messenger and his oral message. The king's men in Copenhagen probably also trusted the messenger from Oslo because they knew him personally from earlier visits.⁷

⁴ Snorri Sturluson, *Heimskringla*, ed. B. AÐALBJARNARSON, 3 vols. (Reykjavík, 1979: *Islenzk Fornrit* 26-28) [henceforth *Hkr*]; English translation: *Heimskringla: History of the Kings of Norway*, tr. L.M. HOLLANDER, 2nd edn. (Austin, 1995; first edn. published in 1964). All editions and translations have identical chapter divisions. "The Saga of St. Olaf", c. 68-72.

⁵ *Hkr*, "The Saga of St. Olaf", c. 131; *Regesta Norvegica*, 7 vols. (Oslo, 1978-1997), 1, No. 25.

⁶ *Diplomatarium Norvegicum*, ed. C.C.A. LANGE *et al.*, 1-22 (Oslo, 1849-1995) [henceforth DN], 12, No. 554.

⁷ The letter itself has not been preserved, only the instruction to the messenger. However,

In these cases the sealed letter had replaced the sword and the gold ring as symbolic objects creating trust. When the exchange of letters had become the rule, the personal trust of sender and recipient in the messenger still seems to have been essential. The message was written, but it seems that the messenger often learnt the letters by heart, and that he was in possession of additional information that was not written down. In the Scandinavian Middle Ages no postal services existed. Letters had to be carried by personal messengers, and the message could without problems be transmitted orally. It might therefore be argued that throughout the Scandinavian Middle Ages the oral message remained more important than the written message, and that the letter's main function was that of a symbolic object creating trust.

Jurisdiction: Trusting the Evidence

'Communication' is often used as an inclusive term for all uses of the written and the spoken word. But this can make us forget that writing was used for two different purposes. First, to send a message from one person to another, as discussed above. Secondly, to store or preserve information which was difficult to remember. The question of trust must be discussed differently in these two cases. The problem of trust in stored information was most important; it is best documented in a juridical context.

What had created trust in remembered truth in oral judicial procedures? Procedures for verifying evidence are described in the oldest preserved laws. If there was conflicting factual evidence, the court in the pre-literate period sought to make clear what was 'well known' – i.e. what was the commonly held opinion – and for this purpose a jury of neighbours (*kviðr*) was assembled. A person who was accused of a crime could free himself by making a certain number of men swear that he was innocent.⁸ It was not the aim to show that the postulated facts corresponded to reality. This oral society put trust in the judgement and knowledge of good men in the local society. Because of the importance of the

that the captain takes for granted that the king would ask for additional information strongly suggests that this was written in the letter the king had just read.

⁸ *Gulatingslova*, ed. R. KEYSER and P.A. MUNCH (Christiania (Oslo), 1846 = *Norges Gamle Love*, 5 vols. (Christiania (Oslo), 1846-1895) [henceforth NGL] 1), pp. 119-258; English tr.: *The earliest Norwegian Laws: Being the Gulathing and the Frostathingn Law*, tr. L.M. LARSON (New York, 1935), pp. 213-404, §132-135; L. HAMRE, "Edgärdsman: Norge", in: *Kulturhistorisk Leksikon for Nordisk Middelalder*, 22 vols. (Copenhagen, 1956-1978) [henceforth KLN], 3, cols. 492-499.

kviðr and the emphasis on public knowledge, individual witnesses who had special information were less important, but they were heard. A fact had to be confirmed by two independent witnesses, or, in the sententious language of the law: “one witness is like none, two witnesses are like ten”.⁹ They had to swear an oath that they had spoken the truth. If the witnesses contradicted each other, the party who could muster the largest number of witnesses prevailed. This emphasis on public knowledge as expressed by the *kviðr* may seem strange to modern people. But pre-literate societies lacked other means to verify truth. They had to trust the memory and judgement of local men.

It was also important to establish beyond doubt when a transfer of rights or an agreement became legally binding. The basic ceremony in the oral tradition was, that the parties shook hands in the presence of witnesses while the agreement was recited aloud. To this could be added other ceremonies. *Skeyting*, a legal ceremony for transferring property, is known in all Scandinavian countries, but it is given its most detailed description in the Norwegian Gulathing law. The seller and buyer visited the property to be sold. The seller collected soil “from beneath the four corners of the fireplace and the ‘seat of honour’ (*andveges sæte*) in the hall, from the border between field and meadow and between pasture and wood”. The buyer held out a corner of his cloak (the word *skeyting* derives from Old Norse *skaut*, meaning the corner of the cloak) and the seller put the soil into it in the presence of witnesses, symbolizing the transfer of the land. Later, the two met at the *Thing*, the local assembly on a fixed site where regular public meetings were formally held. There, the witnesses confirmed the performance of the *skeyting*. Those present at the *Thing* confirmed the transaction as legal by clutching their weapons (*vápnatak*).¹⁰ The ceremony of *vápnatak* in the presence of witnesses could be used to make any agreement legal at the *Thing* or elsewhere. In Sweden it was called *skaptafærd*. Those present could clutch their own weapons, either a sword or any other weapon. Several men could also grip the same weapon — for practical reasons this had to be the shaft of a spear.¹¹

These oral ceremonies were meant to store agreements with judicial consequences in the collective memory of the local community, and to bring these facts to light when the courts needed them. In the pre-literate period people trusted the memory of good members of the local community.

⁹ *Gulatingslova*, §59.

¹⁰ *Gulatingslova*, §292; L. HAMRE, “Skøyting”, in: KLMN 16, cols. 155-164. G. HAFSTRØM, “Skøyting: Sverige”, *ibid.*, cols. 164-166. O. FENGER, “Skøyting: Danmark”, *ibid.*, cols. 166-167.

¹¹ I. LARSSON, *Svenska medeltidsbrev* (Stockholm, 2001), pp. 199-202.

The introduction of writing did not abolish the ceremony of handshaking in the presence of witnesses. In Norway, the earliest written titles to property were statements by witnesses that this ritual procedure had taken place.

The Church also tried to appropriate the pre-literate, secular ceremonies into its literate procedures. In 1211 a layman confirmed his gift of land to the monastery of We in Sweden by performing a *skeyting* over (or on) the altar of St. Mary in the monastery, in the presence of the archbishop (“...*dimidiam partem portionis sue confirmavit scotando super altare sancte Marie*”).¹² It is not clear from the text what actually happened. The layman may have placed some soil on the altar as a symbolic confirmation of his gift to the monastery, but in the Scandinavian languages *å skøde/skjøte* (Latin *scotare*) gradually came to signify the issuing or handing over a charter transferring property. The layman may therefore have put a charter on the altar; the soil was replaced by a document.

Court verdicts were also important to have in writing, as they could help the winning party to have the verdict enforced. Norwegian judges were obliged by law to issue such charters in 1308.¹³ It seems to have been part of court routine from the fourteenth century onwards,¹⁴ but oral evidence about earlier court cases continued to be accepted. In exceptional cases, the court could actively seek to have oral testimonies written down instead of hearing them in court. This could be done if there was a reason for hearing testimony away from the location where the court proceedings took place, e.g. in conflicts about the borders between farms.

The great increase in the writing of charters in Sweden and Norway came in 1280-1350, but charters do not seem to have been actively used on a larger scale as court evidence until after 1400. Written titles were used side by side with oral witnesses throughout the period.¹⁵ There was a pragmatic combination of orality and literacy, and there are no traces of any tension between elite literacy and popular orality. Scandinavians trusted both the spoken and the written word, and evaluated both critically.

¹² *Diplomatarium Suecanum*, ed. B. HILDEBRAND *et al.*, 10 vols. published so far (Stockholm, 1829-2004), 1, No. 141.

¹³ NGL, 3, No. 25.

¹⁴ At least in Norway and Sweden; see J. LIEGREN, “Dombrev”, in: KLN 3, col. 162; L. HAMRE, “Dombrev: Norge”, *ibid.*, cols. 163-165; E. ARONSEN, “Innføring av praktisk skriftkultur i norsk seinmiddelalder – et ledd i sentraliseringsprosessen”, *Historisk tidsskrift* 80 (2001), pp. 419-443, at p. 431.

¹⁵ LARSSON, *Svenska medeltidsbrev*, p. 191.

Charters had to meet certain formal requirements if they were to be accepted by the court. The law stipulated that they had to be sealed, in practice either by the parties to the agreement, or by the witnesses named in the document. In the latter case, there had to be at least two seals of witnesses.¹⁶ Charters always gave certain standard information, and the way the text was written followed a pattern. Judges looked with suspicion on letters which did not conform to this pattern. In the sources falsifications are mentioned, but not often. When two documents contradicted each other, the judge had to decide which of the two letters best described what had actually taken place. He would first formally examine the letters. Did both have the legal minimum of two seals? Letters were dismissed if they failed to meet formal requirements. If both letters were legal, the royal judge had to evaluate the content of the letters. This was an innovation in Scandinavian secular courts (it is mentioned in charters from the beginning of the fifteenth century). A jury of twelve illiterate peasants could hardly do this; it had to be done by a literate judge.¹⁷ In a court case based on oral testimony only, things had been simpler, as the person who could muster the largest number of legal witnesses would prevail. Written evidence strengthened the position of the literate royal judges.

A direct effort by the authorities to enhance trust in charters was made in the Swedish national law of 1350. All land transfers were to be confirmed by local courts, both in the countryside and in the towns, and a judge was to issue a charter (*fastebrev*) confirming that the transfer had taken place in the presence of named witnesses from the local population. This did not prevent the parties from issuing other documents on their own initiative, but the *fastebrev* was now the key legal document needed to prove a claim. An alternative in urban communities was to have the transfer written into the town register.¹⁸ The model for the public registration of land transactions was the town register of the Hanseatic towns of Germany. Trust now depended on the charter being issued and kept by a public authority. Such official confirmations of land transactions were

¹⁶ *Den nyere Landslov*, ed. in: NGL 2 (Christiania (Oslo), 1848) p. 178; Norwegian tr.: *Magnus Lagabøtes landsloiv*, tr. A. TARANGER (Kristiania (Oslo), 1915; new edn. Oslo, 1979) VIII.11; ARONSEN, "Innføring av praktisk skriftkultur...", p. 427.

¹⁷ E. ARONSEN, *Skrift og rett: Utviklingen av en skriftkultur i Telemarks rettssystem i perioden 1300-1450* (Unpublished MA thesis, University of Oslo, Department of History, 1999), pp. 111-123.

¹⁸ J. LIEGREN, "Fastebrev", in: KLM 4, cols. 195-196; P. MEYER, "Fastebrev", *ibid.*, col. 197; J. LIEGREN, "Stadbok", in: KLM 16, cols. 652-654; L. SVENSSON, "Tänkebok", in: KLM 19, cols. 195-199; LARSSON, *Svenska medeltidsbrev*, pp. 141-154.

not required in Denmark and Norway, where letters issued by the seller or by the witnesses were sufficient.

In the period 1150-1350 there was a gradual development in all the Scandinavian countries where the traditional, oral ways of evaluating evidence were marginalised. Professional judges came to evaluate both oral evidence and charters. In those cases in which the evidence was contradictory, it was up to the judge to choose which evidence he trusted. In his written verdicts the judge never presented all the evidence in full; he only cited the evidence in favour of the winning party. The witnesses who had given evidence in favour of the losing side were not mentioned. If the judge had two charters contradicting each other, he would normally only say that one of them “seems to us to be trustworthy (*skællig*)” without telling us why. The official judges often had co-judges, but we are never told that there was disagreement between them. This presentation evidently aimed to create trust in the final verdict. There seems to have been a fear that, if disagreements and conflicting evidence were presented, it would be more difficult to carry out the verdict. This authoritarian way of presenting the verdict was common also in other parts of Europe. The judge did not try to convince the readers that his verdict was right in relation to what had actually happened. Trust in the verdict depended on trust in the royal official behind it.¹⁹

In pre-literate communities trust in oral evidence equalled trust in the well-respected men and women in the local community. Trust in written evidence was the result of an examination which had to be carried out by a literate person with juridical expertise. Trust in evidence continued to mean trust in persons – now in the literate officials of the State and Church.

Religion: Trusting Preaching

The Christian religion is often called a ‘religion of the book’. This does not mean that there were ready answers to all questions in the Church’s holy books, but answers had ultimately to be based on quotations from these books. Theological discussions had as their point of departure quotations from the Bible, the Fathers of the Church, from the many holy theologians and dogmas and doctrines approved by popes or synods. Church doctrine was taught to future

¹⁹ ARONSEN, *Skrift og rett*, pp. 111-123; W. DAVIES and P. FOURACRE, “Conclusion”, in: *The Settlement of Disputes in Early Medieval Europe*, ed. W. DAVIES and P. FOURACRE (Cambridge, 1992), p. 219.

priests in schools, which to a large extent based their teaching on books. To literate priests, the Christian religion must have appeared as a religion of the book. The Icelandic Bishop's sagas and other secular sagas give basically realistic, though sometimes idealising, descriptions of the life of the Icelandic and Norwegian clergy. Literate learning in theology, canon law and Latin gave a cleric prestige, and helped him to advance in the hierarchy of the Church. There is no indication, however, that this created clerical trust in the written word as such. The clerics' trust was in the authors of the texts; the written word was merely an instrument to grasp religious truth.²⁰

Laymen received God's word in personal conversations with their parish priest, particularly at the annual confession, but above all from the pulpit. At the end of the Middle Ages a few lay people also read prayer books, but this small minority will not be discussed here. In the Bishops' sagas it is considered important for a priest to say Mass, to read the Latin texts correctly, and to sing the Mass with a pleasing voice, moving the hearts of the listeners. Preaching should move people to repentance. One priest was so timid that he did not dare to use his own words when preaching, instead reading aloud from a book of homilies. He excused himself by saying that the congregation had more trust in the book.²¹ But we are made to understand that the normal way of preaching was, that the priest spoke in his own words to the congregation. The purpose of the sermon was to move the hearts and improve the conduct of the listeners.²² Effective preaching therefore depended on personal trust between preacher and congregation.

Medieval Scandinavian laymen evidently trusted the Church's religious message; their faith was orthodox. No unorthodox preachers are known from medieval Scandinavia, and if they existed, they had little or no impact. Children no doubt received religious knowledge from their parents or others in their household. There are no indications, however, that this unofficial, oral transmission of religious knowledge contradicted or undermined the doctrines of the Church. Sagas written by laymen describe persons who had internalised the Christian message.²³

²⁰ NEDKVITNE, *The Social Consequences of Literacy in Medieval Scandinavia*, pp.47-50.

²¹ *Jóns biskups saga*, ed. J. SIGURDSSON and G. VIGFUSSON (Copenhagen, 1858: *Biskupa Sögur* 1), pp. 213-260.

²² NEDKVITNE, *The Social Consequences of Literacy in Medieval Scandinavia*, pp. 55-58. This is mainly based on the Sagas of the two bishops Jon and Laurentius.

²³ A. NEDKVITNE, *Møtet med døden i norrøn middelalder* (Oslo, 1997), pp. 120-121.

Why did the congregation trust the spoken word of the Church's preaching? No layman has written explicitly about this, but the institutional setting must have been important. The parish priest spoke in the church, was consecrated and had received his education from the Church. The liturgy made the priest an intermediary between God and the congregation. The priest possessed the institutionalised authority of the Church. But he also used the means of the oral tradition at his disposal to create trust. The listeners normally had personal confidence in their priest and therefore were inclined to trust his message. The powerful Church organisation, based on literate means of communication, created trust through authority; the individual priests, using oral means of communication, inspired personal confidence. To make laymen trust its message, the Church combined the literate and oral means of communication at its disposal.

History: Trusting Narratives about the Past

In the prologue to his *History of the Norwegian kings (Heimskringla)*, written c. 1230, Snorri Sturlusson explained how he valued the oral and written sources at his disposal.

Snorri's saga takes up 600 to 700 printed pages, and much of his information, probably most of it, came from oral sources. He put most trust in skaldic poems, which at his time were transmitted in an oral tradition. The rhymed form made oral transmission more reliable. Most of the poems had been composed for the kings who had participated in the events described in the poems; they were recited in their presence. If the skald described events which had never taken place, those present would know it. "This would have been scorn and not praise". But Snorri acknowledged that the praise the skalds lavished on the kings could not be taken at face value. The poems could also suffer distortions as they were transmitted orally; they were reliable sources only "if they are recited correctly and interpreted wisely".²⁴

Most of Snorri's information came from prose stories transmitted orally from generation to generation. Snorri's principle for trust in such narratives was, that they ought to have been transmitted through reliable men. It was therefore important to know through which persons the information had come down to his own time. In the prologue to his book he names men and women

²⁴ *Hkr*, "Prologus".

from all generations who had transmitted information, and this gave him a line of reliable people stretching back to the 990s. He realised that this oral tradition could not be accepted uncritically. "But even if we do not know for sure that this information is true, we nevertheless know that old, wise men have held it to be true".²⁵

What made people trust historical information in a pre-literate, oral society? Most important was that the information came from 'good' men and women; personal trust in the informant was essential. What made people 'good' and trustworthy in this context? Snorri mentions their good memory, and that they were "wise", so that they did not misunderstand and distort the information. Many of the people named were also well-known people, members of prominent families. Social prestige also created trust.

Snorri used several earlier written sagas as sources for his own work. He is very casual and brief about this, but medievalists have discussed his references thoroughly. The most important written source was *Morkinskinna*, a history of Norwegian kings, c. 300 pages in modern print, by an anonymous author. Snorri also used several other sagas.²⁶ The only one he explicitly mentions in his discussion of sources in the prologue, is the chronicle of the priest Ari the Learned, written a century earlier, c. 1130. Snorri says that he trusted him most, first because his was the earliest written narrative on the subject, secondly because Ari was a wise man with a good memory, and thirdly because Ari had collected his information from reliable people in the oral tradition. Ari's *Islendingabok* dealt mainly with Iceland, and gave only limited information on the Norwegian kings. It cannot have been an important source for Snorri. He probably praised Ari because he was held in high esteem on Iceland in Snorri's time, and it would increase people's confidence in Snorri's own work if he could give the impression that it was based on Ari.²⁷ Later in his work he also mentions a chronicle called *Hryggjarstykki*, written by Eirik Oddsson.²⁸ He, too, seems mentioned because he was well known and respected. Eirik's work only described a short period in Norwegian history (c. 1130-1139), and his saga was not an important source for Snorri.²⁹ Neither in his prologue nor elsewhere in his text does Snorri bother to give a survey of which written sources he had

²⁵ *Hkr.* "Prologus".

²⁶ J. KRISTJANSSON, *Eddas and Sagas* (Reykjavík, 1997), pp. 168-175; D. WHALEY, "Heimskringla", in: *Medieval Scandinavia: An Encyclopedia*, ed. Philip PULSIANO et al. (New York, 1993), pp. 276-278.

²⁷ *Hkr.* "Prologus".

²⁸ *Hkr.* "The saga of the sons of Harald Gille", c. 11.

²⁹ J. KNIRK, "Konungasögur", in: *Medieval Scandinavia*, pp. 362-365.

used, let alone an explanation of what he did if they contradicted each other. Snorri and the other Scandinavian saga authors and chroniclers seem as yet not to have developed a modern critical attitude to written texts.

Instead of using source criticism to decide which of any contradictory sources was most reliable, Snorri normally solved the problem by accepting both sources, trying to reconcile the information. Snorri's method can be studied in practice in his description of the martyrdom of King Olaf Haraldsson in 1030. All Snorri's sources agreed that it was dark when St. Olaf was killed at Stiklestad, but was this darkness natural or supernatural? The ecclesiastical poem *Geisli*, written by the Icelander Einarr Skúlason in the middle of the twelfth century, says unambiguously that God miraculously covered the sun. The Norwegian chronicler Theodoricus, writing in the second half of the twelfth century, has a secular version: "They fought until evening, when the darkness of night parted them".³⁰ Snorri reconciles the two versions by telling us that before the battle started, the sun was shining. "But when the battle started, a red cloud covered the sun and the sky, and before the battle was over, it was dark as night".³¹ Was that because the sun set? Or was it a miracle? Snorri is ambiguous; the interpretation is left to the reader.

Snorri used the same method of source criticism for both oral and written sources. It was originally meant for the evaluation of oral evidence, but medieval Scandinavian authors transferred it to the criticism of written sources. The basis of this 'method' was, that trust in information depended on trust in the persons who provided this information. When Snorri gives his reasons for trusting the written *Islendigesaga* of Ari, he uses the same type of arguments as when he tries to convince us that the oral information given by Torgeir Avrðaskoll and Turid, the daughter of Snorri the chieftain, is reliable. The information could be trusted because it came from people who were wise, had a good memory even when they had lived to a great age, and were socially respected.³² Snorri and his colleagues regarded sagas as written oral information.

A linguistic corollary of this understanding is, that saga authors tried to make their written 'saga style' as close to the spoken language as possible. Linguists have shown that authors made a conscious effort to make the 'saga

³⁰ Theodoricus Monachus, *Historia de antiquitate regum Norwagensium*, ed. G. STORM in: *Monumenta Historica Norvegie* (Kriatiania (Oslo), 1880), pp. 1-68; English tr.: *The Ancient History of the Norwegian Kings*, tr. D. and I. MCDUGALL (London, 1998), c. XIX; *Geisli* v. 19, ed. in: *Den norsk-islandske skjaldedigtning*, ed. F. JONSSON, 4 vols. (Copenhagen, 1908-1915), B. *Rettet Tekst*, 1, p. 432.

³¹ *Hkr.* "The saga of St. Olaf" c. 226.

³² *Hkr.* "Prologus".

style' more colloquial during the thirteenth century.³³ Even biographies of contemporary Icelandic bishops were written in this style, including the *Lives* of some who were venerated as saints.³⁴ Enhancing trust was probably one motive for making the language colloquial. All history was seen as based on oral sources. The closer the narrative remained to its oral origins, the more trustworthy it was – or so it appeared to the first generation of Icelandic historiographers of the thirteenth century. Written historiography gained trust by covering itself in the clothes of traditional 'oral historiography'.

Around the year 1230, the written historiographic tradition in Scandinavia was only a hundred years old, and it is understandable that contemporaries treated it as a 'written oral tradition'. The first written narratives had to be based on oral sources. Documentary sources either did not exist, or they were seen as irrelevant. Thirteenth-century historiographers had not yet taken in the methodological consequences of the fact that an increasing part of historical knowledge was now transmitted in writing. Trust in historiography was personal trust in the author, not trust in his methods as different from his personal 'wisdom'.

Why Was Written Communication Trusted?

In Scandinavia there is no evidence for 'distrust in writing' in the first literate centuries. The reaction seems to have been different from that in twelfth-century England. England experienced a development different from that of Scandinavia. In the twelfth century, England's Norman lords forced English society through a precocious development of literacy. Among other things they demanded written titles to property. The Benedictine monasteries founded before 1066 did not always have such charters. They solved their problem by producing forgeries on a large scale. Clanchy assumes that this practice was well known to contemporaries, leading to a general distrust in charters. He explicitly dates this distrust in writing to the twelfth century. After 1200 things settled down. Most great landowners now had written titles to their property, and methods had been developed to expose forgeries.³⁵

³³ KRISTJANSSON, *Eddas and sagas*, pp. 212-214.

³⁴ Á. EGILSDOTTIR, "Biskupa sögur", in: *Medieval Scandinavia*, pp. 45-46. The exception is bishop Jon, who was a saint and whose *Life* was written in Latin. The two other Icelandic bishop-saints Þorlak and Guðmundr had their sagas written in the vernacular.

³⁵ CLANCHY, *From Memory to Written Record*, pp. 294, 318 and 327.

The empirical evidence that the forgeries of the Benedictine houses resulted in a general distrust in writing, is not strong.³⁶ It comes from judicial conflicts in which one party had an interest in undermining the written evidence of the other party. This does not necessarily suggest a general distrust in written evidence.³⁷ Clanchy himself advances arguments undermining his own theory about a wave of distrust in the twelfth century.

Effective precautions against fraud were not taken [in the twelfth century], because they demanded extensive professionalism and because writings seemed to have been thought of at first as subsidiary aids to traditional memorializing procedures and not as replacements of them. A new technology usually adapts itself at first to an existing one, camouflaging itself in the old forms and not immediately realizing its potential.³⁸

This is an appropriate, generalising description of trust in writing that also fits Medieval Scandinavia. Writing was not generally distrusted because it was adapted to the mechanisms creating trust in traditional, oral societies.

Was England a special case? Clanchy's book does not give a convincing answer, but then it was not the author's intention to provide a comparative analysis. We can be grateful for his discussion of an interesting and important problem, which is best discussed from a European perspective.

Apart from Clanchy and those working in his tradition, until recently trust in writing has not been an important theme in research. The main focus has been on the social and mental consequences of literacy. However, there is an opinion (which, because it is assumed to be true, is hardly ever stated explicitly) that medieval illiterates trusted and respected writing because of its associations with Holy Scripture and other holy books. Wolfert van Egmond has discussed this with respect to hagiographical texts. His conclusion is that "the written word itself was not considered holy, but sometimes the message it conveyed was". The message created trust or distrust. The fact that the message was in written form did not by itself create trust; usually writing was merely considered "a tool for everyday purposes".³⁹ This pragmatic attitude to writing, considering it as yet another practical tool, has been confirmed by Scandinavian

³⁶ CLANCHY, *From Memory to Written Record*, pp. 318-326.

³⁷ CLANCHY, *From Memory to Written Record*, p. 297.

³⁸ CLANCHY, *From Memory to Written Record*, p. 327.

³⁹ W.S. VAN EGMOND, "Hagiography as a source for early medieval literacy", in: *Literacy in Medieval and Early Modern Scandinavian Culture*, ed. P. HERMANN (Århus, 2005: *The Viking Collection: Studies in Northern Civilisation* 16), pp. 245-255, esp. pp. 251 and 254.

evidence. It can be illustrated by an example. In 1308 the Bishop of Stavanger accused a peasant of having cheated him of some land. The bishop sent a letter to the peasant's parish priest, who was ordered to read it in church every Sunday until the peasant obeyed. This was a common procedure. Did the bishop here exploit a religious respect for the written word? Did the parishioners hear not only the parish priest's voice but also that of the bishop and the voice of God when they had the letter read to them? In all such instances the message of the written letter also contained an implicit threat of a future court case.⁴⁰

The contribution of this paper to the discussion about trusting writing is the view that trust depends on power. Changes in trust have to be analysed as a combination of changes in power and communication. This makes it easier to analyse both continuity and change in 'trust in writing' in a period of transition from orality to literacy.

The conclusion of our discussion has to be that trust in both oral and written communication depended on trust in the person or institution behind the message. Trust in communication between two persons depended on trust in the messenger who recited the message or delivered the letter. Oral judicial evidence was trusted because the court and the community knew the witness as a good and reliable person. Written evidence was trusted because the court knew the person (or persons) who had heard and written down the evidence, or because they had titles or a social position which created trust. Laymen received practically all their religious instruction orally, and trust in the parish priest depended in part on personal confidence in a person the parishioners knew personally, but also on the priest's being part of an institution in which they evidently had confidence. Trust in information about the past depended on confidence in the person who gave this information, be it in oral or written form. In short, trust in oral communication depended on personal confidence in the person who transmitted the message, and this way of imagining trust was transferred to written communication. This common basis for trust created continuity from orality to literacy.

In the period 1280-1350 there was a significant increase in the number of charters issued each year all over Scandinavia. At the end of the period many of the extant charters had been issued by people who were by then dead and forgotten. In such cases it was a great help to the reader if the titles of the author or the witnesses were mentioned in the text. Clerical titles and titles of state officials are given throughout the period, and the name of the farm on

⁴⁰ NEDKVITNE, *The Social Consequences of Literacy in Medieval Scandinavia*, pp. 194-195.

which he lived was normally added to the name of a peasant. In Norway, at the end of the fourteenth century the king's judge gave certain peasants the title *lagrettemann*, which meant that they were eligible to become co-judges at the royal courts. The extensive use of this and other titles in charters was an effort to transfer trust in people to trust in the institution which had given them their titles. There is no evidence that laymen had problems with transferring 'trust' from individuals to institutions, or from oral information to written documents. This change has to be understood against the background of two shifts: that of social power from persons in the local community to Church and state, and that resulting from the need to adapt to a new means of communication.

Rituals and symbolic objects were used to render visible symbolically that an important act was taking place. This was done so that the act was accepted by the community. After the introduction of writing, rituals and symbols were gradually replaced by the formal requirements connected with the drafting and issuing of documents. Trust in the written way of symbolising important acts was created by using the traditional oral symbols and the new literate symbols side by side. New property rights were verified both through a ritual and by issuing charters describing the ritual.⁴¹ People could choose to base their trust on the oral or the written verification, or on both; no conflict between the oral and the written was possible, and none is recorded in the sources. The authorities could choose to emphasise the written message, while the subjects saw the symbolic act as the most important. Gradually the subjects too grew familiar with writing. This confirms Clanchy's conclusions in his chapter on trusting writing.⁴²

Trust in both oral and written messages was largely the result of trust in the persons behind it. Today History and Law use 'scientific' methods to examine whether a text is trustworthy. These methods are objective and — if they are applied as they ought to be — they are carried out without regard for the social rank of the authors of the texts. In the medieval tradition, many types of texts had to meet formal (exterior, standard) requirements, but no textual criticism existed which rendered possible an analysis of the content of the text. If a judge had two documents presenting contradictory evidence before him, he would normally only say which of the two seemed to him most reliable, without telling us why. If a saga writer had two contradictory texts before him, he would normally try to find a compromise. Judges and saga authors were probably

⁴¹ ARONSEN, *Skrift og rett*, p. 153; ARONSEN, "Innføring av praktisk skriftkultur ...", pp. 427-429.

⁴² CLANCHY, *From Memory to Written Record*, esp. p. 295.

unable to explain their preferences, because no method for evaluating trust in texts had yet been developed. If the historiographer had no alternative than to choose either one or the other versions of a narrative, he would normally fall back on the traditional oral method: the most trustworthy version is that supported by the best man.

Walter Ong and Jack Goody have argued that the introduction of writing favours generalisation and depersonalised ways of thinking.⁴³ In the Middle Ages, this evidently did not result in a method for creating trust in writing through the critical examination of written texts.

⁴³ Classics are J. GOODY and I. WATT, "The consequences of literacy", *Comparative Studies in Society and History* 5 (1963), pp. 304-355, republished several times, and W.J. ONG, *Orality and Literacy: The Technology of the Written Word* (London, 1982).

Ways of Knowing and Meanings of Literacy in Twelfth-Century Admont

CHRISTINA LUTTER

I.

The monastic reform movements of the eleventh and twelfth centuries generated a wide range of new forms of communal spiritual life, both temporary and enduring.¹ People reconsidered values, characteristic features and forms of spiritual and social conduct to define and legitimize communities and differentiate between them. Attempts to transform theoretical models into lived practice in turn produced many new regulations for spiritual communities and also dissent between representatives of traditional ways of thinking and those in favour of new ideas.² In this climate of often passionate debates, resulting in insecurity about how to live a life pleasing to God, arguments and

¹ For seminal overviews and contributions, see *Renaissance and Renewal in the Twelfth Century*, ed. R.L. BENSON and G. CONSTABLE (Oxford, 1982); G. CONSTABLE, *The Reformation of the Twelfth Century* (Cambridge, 1996); *Reformidee und Reformpolitik im spätsalisch-frühstaufischen Reich*, ed. S. WEINFURTER and H. SEIBERT (Mainz, 1992: *Quellen und Abhandlungen zur Mittelrheinischen Kirchengeschichte* 68); *Die Reformverbände und Kongregationen der Benediktiner im deutschen Sprachraum*, ed. U. FAUST and F. QUARTHAL (St. Ottilien, 2001: *Germania Benedictina* 1). For a recent summary of the contributions in this field of research, see the chapter “Monastische Reformen im 12. Jahrhundert”, in: C. LUTTER, *Geschlecht und Wissen, Norm und Praxis, Lesen und Schreiben: Monastische Reformgemeinschaften im 12. Jahrhundert* (Wien, 2005), pp 31-40.

² For instance, the hot-tempered debates between exponents of the Benedictine order and those of the Cistercian fraternity. See, for instance, Idung von Prüfening, *Dialogus duorum monachorum*, ed. R.B.C. HUYGENS, “Le moine Idung et ses deux ouvrages ‘Argumentum super quattuor questionibus’ et ‘Dialogus duorum monachorum’ ”, *Studi medievali, Serie terza* 13 (1972), pp. 343-374.

new regulations were put in writing.³ Literacy was a fundamental means to state, negotiate and shape what was considered the 'right form' of spiritual life. It had a crucial function in strengthening and stabilizing certain arguments, in the *memoria* and, possibly, the canonization of specific ideas and role-models, while others were not, or only occasionally, recorded and therefore forgotten with time.⁴ A most powerful and influential idea developed in the reform movements was the idea of returning to the biblical apostolic life (the *vita apostolica*): a way of life in the spirit and in imitation of Christ, such as practised by the first Christian communities. There was emphasis on the fundamental equality of all human beings, whatever their social status (*ordo*), sex or ancestry.⁵ Thus, the reform movements provided a range of possibilities for participating in religious life to persons and social groups which until then had not had opportunities for active and engagement in spiritual communities. This particularly affected gender relations: by allowing women access to new spiritual ways of life, the idea of the *vita apostolica* raised the question of how men and women

³ In her correspondence with Abelard, Héloïse asks him, as her spiritual advisor, for a new rule, because the *Regula S. Benedicti* does not seem to meet the specificities and needs of her women's community appropriately: J.T. MUCKLE, "The letter of Heloise on religious life and Abelard's first reply", *Medieval Studies* 17 (1950), pp. 240-281, at p. 242; J. HOTCHIN, "Abbot as guardian and cultivator of virtues: Two perspectives on the *cura monialium* in practice", in: *Our Medieval Heritage: Essays in Honour of John Tillotson*, ed. V. SPEAR, L. RASMUSSEN and D. TILLOTSON (Whitechurch, 2002), pp. 50-64, n. 26, in this context refers to a recently published article by Fiona Griffiths, "Men's duty to provide for women's needs: Abelard, Heloise and their negotiation of the *Cura Monialium*", *Journal of Medieval History* 30 (2004), pp. 1-24.

⁴ See, for instance, G. MELVILLE, "Zur Funktion der Schriftlichkeit im institutionellen Gefüge mittelalterlicher Orden", *Frühmittelalterliche Studien* 25 (1991), pp. 391-417; *Institutionen und Geschichte: Theoretische Aspekte und mittelalterliche Befunde*, ed. G. MELVILLE (Köln, Weimar and Wien, 1992: *Norm und Struktur: Studien zum sozialen Wandel in Mittelalter und Früher Neuzeit* 1); *Vom Kloster zum Klosterverband: Das Werkzeug der Schriftlichkeit*, ed. H. KELLER and F. NEISKE (München, 1997: *Münstersche Mittelalter-Schriften* 74). A. ANGENENDT, "Verschriftlichte Mündlichkeit – vermündlichte Schriftlichkeit: Der Prozeß des Mittelalters", in: *Im Spannungsfeld von Recht und Ritual: Soziale Kommunikation in Mittelalter und Früher Neuzeit*, ed. H. DUCHHARDT and G. MELVILLE (Köln, Weimar and Wien, 1997: *Norm und Struktur: Studien zum sozialen Wandel in Mittelalter und Früher Neuzeit* 7), pp. 3-25.

⁵ See Act 1, 14: "*Hii omnes erant perseverantes unanimiter in oratione cum mulieribus et Maria matre Iesu et fratribus eius*". Cf., for instance, *Vita Willihelmi abbatis Hirsaugiensis auctore Haimo*, ed. W. WATTENBACH, in: *Historiae aevi Salici*, ed. G.H. PERTZ et al. (Hannover, 1856: *MGH SS* 12), pp. 209-225, at p. 218: "*Non solum autem monastica institutio eius aemulatione profecit, sed et singuli gradus ecclesiastici ordinis illius exemplis erudiebantur. Monachos namque humilitate, caritate, auctoritate promovebat; laicos conversione et subiectione docebat; virgines, viduas, ac mulieres munditia et castitate informabat; pauperes Christi et peregrinos parvo esse contentos, ac mundum sub pedibus habere et omnem gloriam eius, verbis et operibus suadebat*".

might live together in communities. Especially the question was raised of the *cura monialium*, the spiritual instruction of female members of these communities by men.⁶

Spiritual models changed, as did religious tasks. The importance of the sacraments, especially the Eucharist, grew. Pastoral care and spiritual instruction moved into the centre of conceptual considerations and spiritual practice.⁷ Among the many models of the *vita communis* shared by men and women, that of the 'double monasteries' was quite common – although the modern term has to be used with caution, as it suggests a much higher degree of organized planning and institutionalization than most communities possessed.⁸

⁶ On the increase of different forms of women's spiritual communities in the reform centuries, see, for instance, M. BERNARDS, *Speculum Virginum: Geistigkeit und Seelenleben der Frau im Hochmittelalter* (Köln and Graz, 1955: *Forschungen zur Volkskunde* 38), p. 1. In this context, cf. also J.T. SCHULENBURG, "Women's monastic communities 500-1100: Patterns of expansion and decline", *Signs* 14 (1988-1989), pp. 261-292; for the situation in France and England, see B.L. VENARDE, *Women's Monasticism and Medieval Society: Nunneries in France and England, 890-1215* (Ithaca, NY and London, 1997); for Germany (with regional emphases), see F.J. FELTEN, "Frauenklöster und -stifte im Rheinland im 12. Jahrhundert: Ein Beitrag zur Geschichte der Frauen in der religiösen Bewegung des hohen Mittelalters", in: *Reformidee und Reformpolitik im spätsalisch-frühstaufischen Reich*, ed. S. WEINFURTER and H. SEIBERT (Mainz, 1992: *Quellen und Abhandlungen zur Mittelrheinischen Kirchengeschichte* 68), pp. 189-300; G. BÖNNEN, A. HAVERKAMP and F.G. HIRSCHMANN, "Religiöse Frauengemeinschaften im räumlichen Gefüge der Trierer Kirchenprovinz während des hohen Mittelalters", in: *Herrschaft, Kirche, Kultur: Beiträge zur Geschichte des Mittelalters*, ed. G. JENAL (Stuttgart, 1993: *Monographien zur Geschichte des Mittelalters* 37), pp. 369-415. For an approach informed by gender history see, for instance, the contributions to: *Listen, Daughter: The Speculum Virginum and the Formation of Religious Women in the Middle Ages*, ed. C.J. MEWS (New York, 2001).

⁷ For a discussion of communal forms of living in accordance with the Acts of the Apostles (esp. Act 2, 42-47), see CONSTABLE, *Reformation*; with a focus on the question of pastoral care, see J. HOTCHIN, "Female religious life and the *Cura Monialium* in Hirsau monasticism, 1080 to 1150", in: *Listen, Daughter*, pp. 49-83, at pp. 61-66, with further references, and HOTCHIN, "Abbot as guardian".

⁸ This term is used, for instance, by S. HILPISCH, *Die Doppelklöster: Entwicklung und Organisation* (München, 1928), and in: *Doppelklöster und andere Formen der Symbiose männlicher und weiblicher Religiösen im Mittelalter*, ed. K. ELM and M. PARISSE (Berlin, 1992: *Ordensstudien* 8 = *Berliner historische Studien* 18), pp. 57-79; for a critique and discussion of the term, see HOTCHIN, "Female religious life", pp. 68-69. For similar forms of communal life, cf. the case studies in S. HAARLÄNDER, "'Schlangen unter den Fischen': Männliche und weibliche Religiösen in Doppelklöstern des hohen Mittelalters", in: *Frauen und Kirche*, ed. S. SCHMITT (Stuttgart, 2002: *Mainzer Vorträge* 6), pp. 55-69, and J. KEMPER, "Das benediktinische Doppelkloster Schönau und die Visionen Elisabeths von Schönau", *Archiv für mittelrheinische Kirchengeschichte* 54 (2002), pp. 55-102. For a recent account, cf. S. HAARLÄNDER, *Symbiotische Konvente und weibliche Religiösen: Konzeption und Realität einer umstrittenen Lebensform im Hoch- und Spätmittelalter* (unpublished 'Habilitation', Mainz, 2003).

The ideas of *vita apostolica* and *cura monialium* were important both for the spiritual well-being of the new female disciples and for their pastoral supervisors. They were, however, ambivalent. They demanded the communal living together of the two genders, thereby seriously threatening the most significant virtue of the monastic vocation: the preservation of the chastity of both female and male virgins, or brides of Christ.⁹ Already in early reform documents such as the *Chronicle of the monastery of Petershausen* it was eagerly stressed that women and men should, according to the apostolic model, commonly fight for God and await salvation at the same place, i.e. in joined communities, but separated from each other.¹⁰

During the processes of negotiation about the right form of living together, the focus was on restricting and controlling interaction between women's and men's monastic communities. Several authors, such as Abelard and Héloïse, Hildegard of Bingen and Idung of Prüfening, sketched comprehensive models which started from the need of separating men and women in monastic communities from the world and from each other; they also developed discursive and practical means to put their ideas into practice. To this end they advocated claustration, and also devised different monastic rules, forms of education and instruction for men and women. It has to be stressed, though, that these 'theoretical' ideas differ widely from each other whenever they refer to the lived practice of religious life in reform monasteries. Physical enclosure in the monastic community and exclusion from the world were in reality primarily demanded of women, in practice, and, later in the twelfth century, increasingly also on theoretical grounds.¹¹

⁹ See LUTTER, *Geschlecht und Wissen*, pp. 78-80, and more extensively *ibid.*, chapter 3.2. With regard to the categories of the social orders, see A. CAMERON, "Ascetic closure and the end of antiquity", in: *Asceticism*, ed. V.L. WIMBUSH and R. VALANTASIS (New York and Oxford, 1995), pp. 147-161; B. JUSSEN, *Der Name der Witwe: Erkundungen zur Semantik der mittelalterlichen Bußkultur* (Göttingen, 2000: *Veröffentlichungen des Max-Planck-Instituts für Geschichte* 158), esp. pp. 46-54, 63-66.

¹⁰ *Casus monasterii Petrishusensis*, Pref. 9, ed. and tr. O. FEGER, 2nd edn. (Stuttgart, 1978: *Schwäbische Chroniken der Stauferzeit* 3), p. 622 (my emphasis): "*De sanctimonialibus. Ubi hoc quoque notandum, quod devote mulieres pariter cum sanctis discipulis Deo militabant, et ideo hoc exemplo non est vituperabile, sed magis laudabile, si sanctimoniales feminae in servorum Dei monasteriis recipiantur, ut uterque sexus, ab invicem tamen sequestratus, uno loco salvetur*". Women in Petershausen are first mentioned in 1116: *ibid.*, 18-10, p. 220.

¹¹ Gisela Muschiol provides a comprehensive study both of the development of the theological concepts of enclosure in the early Middle Ages and a comparative analysis of the correspondence of Héloïse and Abelard about a rule for the nuns in the Paraclet, the *Explanatio Regulae S. Benedicti* by Hildegard of Bingen, and the *Argumentum super quatuor questionibus* by Idung of Prüfening: G. MUSCHIOL, *Klausurkonzepte – Mönche und Nonnen im 12. Jahrhundert* (unpub-

Against this background, my paper addresses the following questions: What was the role of gender in the practice of literacy in monastic communities? How did normative written texts and the ideas on claustration they contained conflict with daily practice? What consequences did these ideas have, for instance, for women's access to literacy, for their uses of texts, for their collaboration with men? How did written texts and textual strategies influence trust in ideas on, for instance, gender relations? In other words, what is the relation between their trust in these ideas and their trust in the written texts that contained them?¹² These are wide-ranging questions, which cannot be fully answered here. They suppose knowledge of the literate practices in 'double monasteries'; and this knowledge in turn supposes some knowledge about gendered claustration practices. For this reason, we will concentrate our attention on one, well-attested example.

II.

The Benedictine monastery of Admont provides extraordinary documentation case for an attempt to find provisional answers to our questions. Founded as a monastery for men in 1074 by the archbishop of Salzburg,¹³ Admont be-

lished 'Habilitation', Münster, 1999). On Hildegard's *Explanatio*, see also G. CONSTABLE, "Hildegard's explanation of the Rule of St Benedict", in: *Hildegard von Bingen in ihrem historischen Umfeld*, ed. A. HAVERKAMP (Mainz, 2000), pp. 163-188. On Idung's work, see HUYGENS, "Le moine Idung".

¹² See LUTTER, *Geschlecht und Wissen*, pp. 1-10 for a set of related questions, which can only be tangentially dealt with here: Within a given community, how did gender relate to other social categories such as origin, social rank (*ordo*), age or generation? Was 'literacy' thought crucial for social differentiation? In which ways did the overlapping ideas of wisdom (*sapientia*), knowledge (*eruditio*, *scientia*) and education connect to ideas about the 'nature', functions and tasks of the female and male genders?

¹³ The seminal work on the monastery is still the four volume history by the abbot and librarian Jacob Wichner: J. WICHNER, *Geschichte des Benediktiner-Stiftes Admont vom Jahre 466 bis auf die neueste Zeit: Festgabe zur Feier der Erinnerung an den vierzehnhundertjährigen Geburtstag des hl. Benedikt*, 4 vols. (Graz, 1874-1880). Wichner moreover provided a separate synthesis of the history of the women's convent: J. WICHNER, "Das ehemalige Nonnenkloster O.S.B. zu Admont", *Wissenschaftliche Studien und Mittheilungen aus dem Benedictiner-Orden mit besonderer Berücksichtigung der Ordensgeschichte und Statistik* 2 (1881), pp. 75-319. For an overview, see H.P. NASCHENWENG, "Admont", in: *Die benediktinischen Mönchs- und Nonnenklöster in Österreich und Südtirol*, ed. U. FAUST and W. KRASSNIG (St. Ottilien, 2000: *Germania Benedictina* 3.1), pp. 71-188, with references. For the political background, H. DOPSCH, K. BRUNNER and M. WELTIN, *Die Länder und das Reich: Der Ostalpenraum im*

came a 'double monastery' around 1120. It developed into an important centre of the Hirsau reform, a most influential reform movement of the twelfth century, which had started from the monastery of Hirsau in the Schwarzwald.¹⁴ The women's community was led by a *magistra*, who was subordinate to the abbot. From charters, necrologies and other contemporary written sources, we know about the high social origin of several of Admont's nuns. They seem to have been actively involved in the reform, as some of them became abbesses in newly founded monasteries.¹⁵ The high standard of their training in reading, writing and the liberal arts is documented in several detailed accounts of the living conditions in the women's monastery, by letters exchanged with contemporary authorities, and by references to nuns as scribes. The great number of extant manuscripts written in and for the women's community provides additional evidence.¹⁶ Even in the 1240s, when with its diminishing importance the number of sources for the women's community has already dwindled, its members are regularly addressed in charters as "*(sancti)moniales* (or *sorores*) *litteratae*" – which is remarkable as such, even if we cannot be sure about the significance such denominations had for contemporaries.¹⁷

Hochmittelalter 1122-1178 (Wien, 1999: *Österreichische Geschichte* 3, ed. H. WOLFRAM). For the relations with further reform movements in the region, see S. WEINFURTER, *Salzburger Bistumsreform und Bischofspolitik im 12. Jahrhundert: Der Erzbischof Konrad I. von Salzburg (1106-1147) und die Regularkanoniker* (Köln, 1975: *Kölner historische Abhandlungen* 24); H. JACOBS, *Die Hirsauer: Ihre Ausbreitung und Rechtsstellung im Zeitalter des Investiturstreits* (Wien and Köln, 1961); K. ARNOLD, "Admont und die monastische Reform des 12. Jahrhunderts", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kanonistische Abteilung* 89 (1972), pp. 350-369.

¹⁴ K. SCHREINER, "Hirsauer Reform", in: *Reformverbände*, pp. 189-224, and the essays in: *Hirsau St. Peter und Paul 1091-1991*, ed. K. SCHREINER, 2 vols. (Stuttgart, 1991: *Forschungen und Berichte der Archäologie des Mittelalters in Baden-Württemberg* 10.1-2). See also JACOBS, *Die Hirsauer*.

¹⁵ *Vita Gebhardi et successorum eius*, ed. W. WATTENBACH, in: *Historiae aevi Salicae*, ed. G.H. PERTZ *et al.* (Hannover, 1854: *MGH SS* 11), pp. 33-49, esp. c. 18, at p. 43 and c. 22, at p. 45; for a summary of the evidence, see WICHNER, "Nonnenkloster", pp. 288-290, and LUTTER, *Geschlecht und Wissen*, pp. 78-80.

¹⁶ For details on the material, see below.

¹⁷ Admont, Stiftsarchiv, P1, P2, P4, ed. by WICHNER, *Geschichte*, 2, p. 321, No. 163: 2 November 1244, St. Veit im Pongau: "... *quod ad relevendam penuriam quam sorores litterate apud Admunde in vestibus paciuntur*"; p. 324, No. 167: 2 November 1245, Kraubath: "... *contulerat litteratis sanctimonialibus*"; and pp. 337-338, No. 188: 21 June 1257, Admont: "... *moniales litteratas*" in Admunde. For a discussion of the term, see the seminal study by K. BODARWÉ, *Sanctimonialis litteratae: Schriftlichkeit und Bildung in den ottonischen Frauenkommunitäten Gandersheim, Essen und Quedlinburg* (Münster, 2004).

III.

In his famous report on the disastrous fire that destroyed important parts of the monastery in 1152, Irimbert, the nuns' spiritual tutor and later abbot (1172-1176) of Admont, gives a detailed description of the fatal incident. He also inserts a digression of the nuns' living conditions in the cloister.¹⁸ A close reading of Irimbert provides some interesting insights in the processes of text production in Admont. It also suggests by which written text's authority the story told is legitimized, for the report is located amid the exegetical texts in one of the codices containing Irimbert's commentaries on several books of the Old Testament. Throughout the manuscript, the tutor's voice repeatedly tells his readers about the development of the composition. Usually at the end of the prologues to a new *expositio*, Irimbert tells us how he had been at first reluctant, but then became convinced to write down the sermons he had already delivered to the women's community some years previously.¹⁹

During his explanations of the fourth book of Kings, Irimbert has a more exciting story to tell. He claims to have been surprised by the nocturnal fire while writing and therefore – or so he tells us – he decided to put down in writing what was happening on the spot.²⁰ He starts his eyewitness account with a description of the dramatic events, 'authenticating' them by using several textual strategies to bring about immediacy and credibility: the fire spreads very

¹⁸ Cod. Admont. 16, pag. 618A-620, 4 Reg 14,7; edited as: *Ven. Irimberti abbatis Admontensis de incendio monasterii sui, ac de vita et moribus virginum sanctimonialium parthenonis Admontensis Ord. S. Ben. Narratio*, ed. B. PEZ (Regensburg, 1725: *Bibliotheca ascetica antiquo-nova* 8), pp. 455-464. Newly edited in LUTTER, *Geschlecht und Wissen*, pp. 318-324. The quotations [henceforth Irimbert, Report] follow my own edition; the numbering of paragraphs corresponds with Pez' edition.

¹⁹ See, for instance, Cod. Admont. 16, Irimbert, Prologus in Librum Regum II, pp. 167-168 (quotations in nn. 30 and 32 below).

²⁰ Irimbert, Report II (cf. above, n. 19): "*Feria namque secunda medie quadragesime expositionem meam sero hic dimiseram ...*". Ibid., III: "*Cum enim matutinorum sollempnitas pervigili intentione et distincta psalmodiae compositione in choro celebraretur, ego et frater, qui mihi ad scribendum adiutor fuerat deputatus, in capella Sanctae Mariae matutinalibus expletis laudibus cursum eiusdem Dominae nostrae usque ad lectionem decantaveramus. Cum ecce clamorem servi cuiusdam audientes obstupescimus, quia in Admontensi loco nocturno tempore aliquem perturbationis strepitum audire non consuevimus. Ille secundo exclamavit iteratoque clamore mali alicuius suspectos nos esse fecit. De capella concite eximus et nichil quidem videntes strepitum magnum circa domum infirmorum audivimus. Servus enim, qui exclamaverat, domum infirmorum calefaciebat. Sed eo negligentius agente ventus vehemens, utique a regione deserti irruens eandem domum exterius invaserat et flamma iam insuperabiliter mira celeritate vento impellente excreverat*".

fast, already seizing the men's house and menacing the women's enclosure. As the keys to the locked doors cannot be found, the abbot decides to break the locks and allow the women to leave the monastery in case all hope of salvation be lost. The nuns cry, and Agnes, the *magistra* and daughter of count Otto of Wolfratshausen, humbly asks where they should go. Deliverance is at hand, and God has mercy on "so many high-born women, who had let themselves be enclosed for their love to Christ". The wind turns, and the women's community is kept safe from the flames²¹ – a traditional theme, already used in the sixth century, when Caesarius of Arles told a similar story about the salvation of the famous women's community of Arles.²²

At this point Irimbert explicitly seizes the opportunity to give detailed information about the nuns' enclosure and their extraordinary discipline.²³ We learn about a gate, three locks and keys, a window with a grille for pastoral communication, and several other detailed physical and social regulations and the exceptions to them. The nuns' spiritual tutor also gives details about their everyday life and liturgical practice (all according to the *Regula S. Benedicti*), the customs in use in Admont and what we may assume was commonsense in an exemplary monastic life.²⁴

²¹ Irimbert, Report VI: "... abbas permotus seras monasterii sororum effringi fecit eisque exeundi licentiam dedit, si periculum incendii declinari non posset". Ibid., VII: "Quem cum domna Agnes, filia comitis Ottonis, fratris episcopi Ratisponensis lachrimabiliter inquireret, quorsum ire deberent, lachrimabiliter et ipse respondit, quocumque vos miseratio Summi Patris duxerit". Ibid., VIII: "Iam tempus miserendi venerat, quia Celestis Pater in ira misericordiae memor esse debuerat, ne de habitatione sui monasterii tot sorores claris ortas natalibus nocturno tempore contingeret eici, quae se pro amore Filii Dei custodiae mancipaverant carcerali". For details on Agnes of Wolfratshausen and for further references, see LUTTER, *Geschlecht und Wissen*, pp. 187-188.

²² Cf. *Vita Caesarii archiep. Arelatensis*, c. 2, 26, ed. B. KRUSCH, *Passiones vitaeque sanctorum aevi Merovingici et antiquiorum aliquot (I)*, (Hannover, 1896: MGH SRM 3), pp. 433-501, at p. 494; similar contemporary accounts, for instance, on a fire in the women's monastery of Marcigny: Petrus Venerabilis, *De miraculis*, cc. 1, 22, ed. D. BOUTHILLIER, reprinted in: PL 189 (repr. 1970), col. 851-954, at col. 889D-891B; and in Petershausen: *Casus Monasterii Petris-husensis*, c. 5, 42, p. 236. Another account of the historical event in Admont is provided by the *Vita Gebehardi et successorum eius*, c. 22, pp. 44-45: "... cui etiam incendio miserabiliter collapsu annuatim quousque reparetur, ... Admuntensi coenobio pecunias suas in auro et argento contulit, cum quibus predia nonnulla coempta sunt, maxima vero pars in aedificio monasterii sororum expensa est". Some decades later the monastery again fell prey to the flames, this time apparently without rescue either of the men's nor the women's community (*ibid.*, *Continuatio a. 1199-1259*, c. 32, p. 50).

²³ Irimbert, Report VIII: "... cuius custodiae distractionem non debeo silentio praeterire. Sed prius ceptum ordinem incendii volo transire".

²⁴ Irimbert, Report XII-XIX.

Irimbert's report is most notable for its ambivalence concerning ideal and practice. In describing the nuns' living conditions within the enclosure, he claims remarkable consistencies between the theoretical ideas of strict claustration and everyday life in Admont. However, his account can also be read as an example of how a seemingly spontaneous, 'innocent' story and the resulting 'reality effects' caused by the text's strategies were used to engender credibility for and confidence in the assertion that a flawless regular monastic life was being conducted in Admont, despite the dangers of men and women living together in the same place.²⁵ It might seem that Irimbert felt the need to stress this regularity, especially at a time when the spiritual demands of the *vita apostolica* and the practical issues of the reform probably could cause adverse effects. Thus, the praise for the nearly absolute separation of women and men – despite a substantial amount of exceptions slipping in – and Irimbert's insistence that this discipline was specific for the *Admuntina religio* might have been a means to conceal routine practices that did not fit the norms.²⁶

Nuns and monks obviously had to speak to one another, most importantly to allow the pastor the *cura monialium*. Going beyond pastoral care, they also seem to have collaborated in the delivery of sermons, and in their preservation (as well as of other texts) in manuscripts.²⁷ Irimbert confirms this assumption at several points in his commentaries. In the report on the nuns' enclosure, there is an interesting passage in which he praises their amazing intellectual qualities: the sisters are highly educated, they have an admirable knowledge of the Holy

²⁵ On the term and concept of 'reality effect', see R. BARTHES, "The reality effect", in: *French Literary Theory Today: A Reader*, ed. T. TODOROV, tr. R. CARTER (Cambridge, 1982), pp. 11-17. It is used by Keith Moxey in his essay on the readings of medieval art: K. MOXEY, "Reading the reality effect", in: *Pictura quasi fictura: Die Rolle des Bildes in der Erforschung von Alltag und Sachkultur des Mittelalters und der frühen Neuzeit*, ed. G. JARITZ (Wien, 1996: *Forschungen des Instituts für Realienkunde des Mittelalters und der Frühen Neuzeit, Diskussions- und Materialien* 1), pp. 15-21.

²⁶ "*Admuntina religio*" is an expression used in a charter issued when the Bavarian monastery Attl was submitted to Admont: *Salzburger Urkundenbuch*, ed. W. HAUTHALER, 1, *Traditionscodices* (Salzburg, 1910), pp. 338-339, No. 236. See also the older edition in: *Urkundenbuch des Herzogthums Steiermark*, ed. J. ZAHN, 1, 798-1192 (Graz, 1875), pp. 247-249, No. 242, where the phrase is put slightly differently: "*Admuntensium religio*".

²⁷ On the collaboration of men and women in twelfth-century reform monasteries, see particularly the recent research of Alison Beach, who also focuses a.o. on Admont: A.I. BEACH, *Women as Scribes: Book Production and Monastic Reform in 12th-Century Bavaria* (Cambridge, 2004); A.I. BEACH, "Claustration and collaboration between the sexes in the twelfth-century scriptorium", in: *Monks and Nuns, Saints and Outcasts: Religion in Medieval Society: Essays in Honour of Lester K. Little*, ed. S. FARMER and B.H. ROSENWEIN (Ithaca and London, 2001), pp. 57-75.

scriptures, and, what is more, some of them are qualified to compose and deliver sermons on feast days when the abbot is absent and is therefore prevented from delivering a sermon himself.²⁸ He then continues in the same apologetic tone which is characteristic for the whole passage on the women's enclosure. If the nuns were not allowed to ever leave the cloister after their entry until their death (except for a possible transfer to another monastery), if they would never see anything of the vanities of the world and only rarely hear something about worldly matters, why then should they not – one is tempted to add 'at least' – rejoice in the knowledge (*scientia*) of the heavenly mysteries?²⁹

In an earlier passage, Irimbert had already referred to the nun's editorial competence. He says that, some years ago, unbeknownst to him the nuns had started to write down his sermons on parchment. Now, to prevent a loss of time because of the fire that understandably kept Irimbert from continuing his work, he was happy to fall back on their notes and to include them into his work without any major changes.³⁰ This account seems to agree with his hints on the regular communication between nuns and pastoral advisors or visitors through the grille.³¹ Irimbert would seem to have preached through this window with the sisters taking down his words.

²⁸ Irimbert, Report XIV: "*Capitulum suum inter se cottidie habent magistra vel eius vicaria praesidente. Et in festis diebus, cum abbas ad eas non poterit venire, sunt inter eas personae ad verbum exhortationis faciendum dispositae. Valde quippe sunt litteratae et in scientia sacrae scripturae mirabiliter exercitate*".

²⁹ *Ibid.*: "... *Cum enim post primum introitum numquam de monasterio egrediantur, nisi vel mortuae efferantur vel vivae forsitan in aliud monasterium transponantur, ubi simili custodia muniantur. Cumque nichil unquam de mundi vanitatibus videant, raro aliquid de secularibus audiant, cur non scientiam celestium mysteriorum habeant, quae ab omni communione mundanorum gaudiorum ieiunant?*"

³⁰ Cod. Admont. 16, Irimbert, *Prologus in Librum Regum* II, pp. 167-168: "*Incendium enim monasterii Admuntensis in media Quadragesima heu invenerat, quod me ab expositionis meae cursu aliquantulum retardaverat. Quoniam autem sorores Admuntenses capitula quedam ex eodem libro regum ante annos aliquot a me audierant, que me nesciente ipse in membranis exceperant, per quod etiam studium meum valde provocaverant, iudicavi non equum esse devotionis earum scripta abicere sed potius, ut ab ipsis excepta fuerant, huic opusculo meo interserere eaque lectori vel curioso vel devoto his indiciis designare*" (edited by J.W. BRAUN, "Irimbert von Admont", *Frühmittelalterliche Studien* 7 (1973), pp. 266-323, at p. 319).

³¹ Irimbert, Report XII: "... *Nulli mortalium nisi ad fenestram conventus sui locuntur, ubi earum capitulo a solo abbate vel priore, raro tamen, praesidetur. Ibi exhortationis verbum ad eas dirigitur, ibi omni sabbato alternatim de uno choro soli abbati vel priori confitentur sicque ad communionem sequentis dominicae omni studio ac diligentia praeeparantur. Nulli licet earum ulli mortalium sive abbati sive amico vel propinquo solam loqui cum solo, nisi sub duarum aut trium sororum testimonio excepto solo confessionis secreto*".

References to women as scribes in several Admont documents suggest the production of texts and books under conditions of enclosure. Irimbert himself tells his readers about the supply of male scribes (*notarios*) and writing materials that the abbot provided for his sermon project.³² Apparently, he did not work with the nuns. Still, for the nuns to be able to take notes from his sermons, the necessary writing materials (for instance, parchment) must have got into the women's enclosure with his or the abbot's knowledge. He must have been informed about what was going on through the grille, or else he would not have been able to take advantage of the nuns' notes after the fire. Any discrepancies between norm and practice, in the matter of the nuns' writing activities as in other instances, are due to the apologetic style used for all references to the circumstances of the spiritual collaboration between the pastoral advisor and the sisters entrusted to his care.

With time, the nuns' covert practices seem to have become accepted as a common project. Two nuns were explicitly released from all other occupations to devote their time exclusively to write down Irimbert's sermons.³³ The women may have been the same Regilind and Irimingart who, together with others, were involved in the edition of Irimbert's Commentaries on the books of Ruth and Judges. They can be identified by an impressive amount of scribal notes.³⁴ Collaboration in book production between Admont's nuns and monks seems to have been a common practice despite the nuns' strict enclosure. While taking the normative rules seriously, women and men evidently searched for and found possibilities to create space for communication for activities such as the production of texts – activities that became increasingly important in times of reform.

³² Cod. Admont. 16, Irimbert, *Prologus in Librum Regum* II, p. 167: "... omne hoc opusculum in spacio sex mensium acceleravi, ipso meo preceptore, domino Admontensi abate, notarios et membranes michi affatim prebente" (ed. BRAUN, "Irimbert von Admont", p. 319).

³³ Cod. Admont. 16, Irimbert, *Prologus in Librum Regum* II, p. 526: "Tanta autem in huius operis difficultate earundem sororum utrimque recreatus sum liberalitate, ut duas mihi sorores ab omni occupatione liberas deputarent, que continue ac diligenter transcriberent, que a me dicta in tabulis excipi potuissent. Proinde si quid in hoc opusculo fuerit, quod alicui fidelium placere potuerit, orationibus ex meritis sororum asscribendum noverit. ... Dicit enim beatus Augustinus, doctor ille eximius et expositorum maximus: Utile est plures libros a pluribus fieri diverso stilo non diversa fide etiam de questionibus eisdem, ut ad plurims res ipsa perveniat, ad alios sic, ad alios autem sic" (Augustinus, *De trinitate*, I, c. 5, ed. W.J. MOUNTAIN and F. GLORIE, 2 vols. (Turnhout, 1968: CCSL 50-50A), p. 823; cf. BRAUN, "Irimbert von Admont", p. 320).

³⁴ Cod. Admont. 651 and 682 contain concept versions; Cod. Admont. 17 (Joshua, Judith, Ruth, Judges) contains representative copies. *Ibid.*, f. 393r: "*Explanatio huius hystorie descripta a sorore Regilinde*"; *ibid.*, f. 420r: "*Explanatio huius hystorie descripta a sorore Irimingarde*". For details, see BEACH, "Claustration and collaboration", pp. 63-67, and comprehensively BEACH, *Women as Scribes*.

They also created space for contacts essential to their spiritual and intellectual life.

Irimbert's own accounts both confirm this practice and try to come to terms with the annoying fact that it seemed so openly to contradict extant norms and orders. One strategy of his text may be to make 'new' models of interaction plausible and legitimize them. Inserting his argument in writing at a very prominent place in a regularly used biblical commentary was meant to defend the community against critics of the *Admuntina religio*.³⁵ Simultaneously, the description and defence of practices that until then were out of the ordinary may have aimed not only at reassuring the people directly involved, but also at legitimizing their endeavour for generations to come, as it was to be expected that codices of spiritual authority and splendid layout would be read, distributed and copied repeatedly.

As at times of reform the given norms themselves were continuously questioned and negotiated, a *modus operandi* such as Irimbert's can be well expected to be an important contribution to these processes. Putting an argument into writing played a central role in furthering its reach both spatially and temporally – a function of literacy crucial to any attempt to introduce 'reformatory' ideas and role models into the existing canons. As any reform movement would in practice deviate from traditional values and ideals, the attitudes and practices suggested in texts like Irimbert's held serious argumentative risks for the advocates of reform, as the fixed form of the written text made such deviations even more explicit. It would leave the proposed 'new' ideas open to criticism, and the author would therefore try to placate, refute or deflect well in advance.

³⁵ Irimbert, Report XXII: "*Diversi forsitan diversa locuntur et cum inscrutabilia esse Dei iudicia apostolus protestetur, ipsi divinorum iudiciorum scrutatores esse moluntur. Proinde negligentiam vel superbiam tantae desolationis forsitan non verentur asserere causam et super divinae castigationis plagam suarum linguarum addunt percussuram. Ceterum si quis spiritualis propositi conscius et amator ante incendii excidium illius monasterii statum vidisset, quantus in divino servicio fervour die noctuque flagraret, quanta inter se invicem continentia et humilitate decertarent hoc profecto de eis iudicium dare non dubitaret, quod adversum se Leviathan suscitant et instar beati Iob temptatoris manibus non ad condemnationem, sed ad probationem traditi fuissent. Quod alii sentiant, nescio. Ego unum scio, quia qui prius continentiae operam dabant et humilitati, cincti flagello Dei magis magisque in continentiae et humilitatis decore sunt compositi, quoniam iuxta apostoli testimonium diligentibus Deum omnia cooperantur in bonum*".

IV.

The ambiguity between the desire to advocate new models of spiritual life and the need of coming to terms with the contradictions between them and the traditional canon also seems to inform a strategy of one of the earliest documents of Admont's women's community. The *vita* of an unnamed woman – according to the features of her idealized description, supposedly the first *magistra* of the women's convent – was written by a “certain learned Gertrud”, as it is put in the semi-Latin, semi-vernacular prologue of the text. This prologue was probably written by an anonymous third person, who may have been a female member of the community.³⁶

Just as with Irimbert's description of the Admont nuns' enclosure, the main issue of the *vita magistrae* is to present the ideal *vita spiritualis*, which is represented by the exemplary life of its protagonist. Her qualities are in line with contemporary catalogues of virtues. She fasts and prays, sleeps little, eats less, and excels in discipline in all possible respects. She meticulously lives up to the Benedictine Rule and to the *exempla maiorum*; her heart fosters only piety, peace and mercifulness.³⁷ The *vita* thus presents a classical model of a pious and literate monastic life. Its structure provides a medium to produce trust and provide its readers with a set of possibilities for social and spiritual identification.³⁸

The codicological context of the *vita* gives clues to its function as a role model for religious women and to the legitimizing function of written texts in books that represent authority. The text is likely to have been written in the

³⁶ *Vita magistrae*, Cod. Admont. 25, f. 235r-v, ed. as *Vita ut videtur cuiusdam magistrae monialium Admontensium in Styria. Saeculo XII, Analecta Bollandiana* (1893), pp. 359-366; Newly edited in LUTTER, *Geschlecht und Wissen*, pp. 325-331. The quotations (henceforth: *Vita magistrae*) follow my own edition; the numbering of paragraphs corresponds with the edition in the *Analecta Bollandiana*. For a discussion of the authorship both of the prologue and of the main text, see *ibid.*, p. 357; a comprehensive philological analysis was made by F. OHLY, “Ein Admonter Liebesgruß”, *Zeitschrift für deutsches Altertum* 87 (1956-1957), pp. 13-23, and LUTTER, *Geschlecht und Wissen*, pp. 123-127.

³⁷ *Vita magistrae* 1: “... Numquam in illius corde nisi pietas, nisi pax, nisi misericordia inerat; hoc gestibus, actibus, verbis, locutionibus comprobatur. In silentio persistebat reverenter usque ad tempus loquendi, quod praenominatur regulariter”.

³⁸ The function of hagiographical texts as role models, also with regard to gender, is discussed, for instance, by J.J. NELSON, “Gender and genre in women historians of the early Middle Ages”, in: EAD., *The Frankish World 750-900* (London, 1996), pp. 183-197; *Gendered Voices: Medieval Saints and Their Interpreters*, ed. C.M. MOONEY (Philadelphia, 1999); J. WOGAN-BROWNE, *Saints' Lives and Women's Literary Culture, 1150-1300: Virginity and its Authorizations* (Oxford, 2001). See also LUTTER, *Geschlecht und Wissen*, part III: “Rollenmodelle und Identifikationsmuster”, pp. 126-177.

1140s, but it only exists as a later addition in a late-twelfth-century manuscript – MS 25, the monastery's copy of the *Magnum Legendarium*, one of the most widely used legendaries of the time.³⁹ The insertion of the twelfth-century *vita magistrae* in the legendary will have created a local reference for Admont's monastic community. That the composition of legendaries such as this was obedient to traditions specific to a community and local influences, may prove the exemplary function of the *vita*, endowed as it was with the authority of its hagiographical context, embodied in regular liturgical practice.⁴⁰

Differing from other contemporary *vitae* such as the famous *Life* and visions of Elisabeth of Schönau,⁴¹ however, both the prologue of the *vita* and the main text highlight the topics of education and literacy both of the author, Gertrud, and of the *magistra* herself: "*Docta quidem Gerdrūt / tu debes scire minen mūt*" ("learned Gerdrūt / you should know my mind"). This is the extraordinary salutation used by the anonymous author of the prologue to the supposed author of the *vita*. She is called God's maiden, a virgin elect and an erudite woman, her works are excellent because of her virginal style.⁴² The main text provides us

³⁹ For details on datings, contents and ascriptions of the manuscripts to Austrian monasteries, see *Analecta Bollandiana* 17 (1898), pp. 38-54; Ch. ZIEGLER, *Zisterzienserstift Zwettl: Katalog der Handschriften des Mittelalters*, vols. 1-4 (Wien and München, 1992-1997), p. 38; B. GSELL and L. JANAUSCHEK, *Xenia Bernardina: Die Handschriften-Verzeichnisse der Cistercienser-Stifte Rehn in Steiermark, Heiligenkreuz-Neukloster, Zwettl, Lilienfeld in Nieder-, Wilhering und Schlierbach in Ober-Österreich, Ossegg und Hohenfurt in Boehmen, Stams in Tirol* (Wien, 1891). For further references, see LUTTER, *Geschlecht und Wissen*, pp. 87-92.

⁴⁰ P.J. GEARY, "Saints, scholars, and society: The elusive goal", in: *Saints: Studies in Hagiography*, ed. S. STICCA (Binghampton, 1996: *Medieval and Renaissance Texts and Studies* 141), pp. 1-22, esp. at pp. 19-20. On the example of the *Magnum Legendarium*, see ZIEGLER, *Katalog* XII; cf. also the comprehensive case study by M. NIEDERKORN-BRUCK, *Das Sanctorale Salzburgs um 800: Liturgie zwischen Norm und Praxis* (unpublished 'Habilitation', Wien, 2000).

⁴¹ For an edition of her works, see F.W.E. ROTH, *Die Visionen der hl. Elisabeth von Schönau und die Schriften der Aebte Ekbert und Emecho von Schönau: Nach den Original-Handschriften: Mit einem historischem Abrisse des Lebens der hl. Elisabeth, der Aebte Ekbert und Emecho von Schönau: Ein Beitrag zur Mystik und Kirchengeschichte* (Brünn, 1884); cf. the study of J. KEMPER, "Das benediktinische Doppelkloster Schönau und die Visionen Elisabeths von Schönau", *Archiv für mittelherrheinische Kirchengeschichte* 54 (2002), pp. 55-102.

⁴² *Vita magistrae*, prologue: "*Fulgida vita Dei famule seu forma trophei / Quo mundum vicit, hec splendida littera dicit / Et bene virgineus stilus explanat pia gesta / Virginis electe, dignis ut sint manifesta / Virgo virgineum per amorem scripsit amorem / Quo dilexit Eum, qui solus confert amorem. Quod placeat pro se, laudando quisque loquatur / Hoc dicam pro me, merces non iure negatur / Gerdrudi describenti vitam venerandam / Eterno placitam Regi nobis imitandam / Docta quidem Gerdrut, tu debes scire minen muot. / Hec que dixisti fervens in nomine Christi / Sunt satis ornata, vera cum laude notata / Scriptorem servans, o Rex terreque polique / Lectores salva, qui iusta tueris ubique*".

with details about the *magistra*'s qualities: she is educated ("*educata*"); her knowledge is considered unsurpassed not only "*in divinis cultibus*", but also in the liberal arts ("*studiis quoque liberalibus*").⁴³

The *vita* provides important details on the Admont nuns' practice of reading, writing and teaching. It tells us what 'education' meant, what forms of knowledge this notion embraced, how these forms were identified and designated, and how people acquired, trained and performed them. The liberal arts obviously were considered content of the neophytes' curriculum ("*... quas scolariis disciplinis instruxit*"). At night the *magistra* dictated "*litterae*" to a scribe, and at the request of the neophytes she wrote down vernacular poetry and prose on wax tablets. At this point, the author's voice feels obliged to stress that everything happened according to the Benedictine rules of silence. It is especially emphasized that the *magistra* never uttered a word in German!⁴⁴

Again, the narration shows considerable ambivalence regarding norms and practice. If the *magistra* lived up to the rules of silence, why would it be necessary to add that keeping silent meant not using the vernacular, but that (one surmises) Latin was acceptable? As a matter of course, the *magistra* did indeed break the formal rules by working and even dictating in the nocturnal hours of strict silence. Obviously, her conduct was perceived as appropriate, or at least necessary, and thus as somehow 'right'. Therefore, her literacy and her role as a teacher are highlighted; these accomplishments might have served to disguise her breaking of the rules. By emphasizing her virtues, her whole conduct is justified and presented as exemplary. Thus, the written text may have had a role in authorizing her behaviour and at the same time may have worked at 're-writing' and thereby reshaping a traditional role model.

⁴³ *Vita magistrae* 1 and 2, esp. "... Et quia in divinis cultibus, studiis quoque liberalibus nulli secunda habebatur, aliquotiens ad alia loca edificationis exemplo transmittabatur".

⁴⁴ *Vita magistrae* 3: "... huc transmittabatur in cenobium quarundam noviciarum in commune viventium; quas scolariis disciplinis instruxit et omnium bonorum augmentis promovit. ... and 4: ... Aliquando enim in tempestate nocte litteras composuit et scribenti praedixit, silentii tamen observantiam retinens numquam aliqua theutonica verba protulit. Preterea licet post completorium secundum regulam perpetuum haberet silentium, tamen cum rogaretur a parvulis, ut versus et prosas praediceret illis, sicut erat plena karitate et dilectione, accepit tabulas et scripsit eis reddendos in crastino versus et prosas ...".

V.

Apart from the extraordinary focus on literacy both texts, Irimbert's report on the fire and the *vita magistrae*, stress the social status of Admont's nuns. Irimbert mentions "so many noble women being in danger"; the *vita* similarly mentions the *magistra*'s birth from a noble family. As with many of her fellow sisters, Gertrud's background was that of a social elite (that of the rising *ministeriales*, who, though usually of servile origin, were employed in a series of politically sensitive capacities, as, for instance, bailiffs, knights, court and household officials, territorial administrators and castellans). The text not only mentions her contacts with representatives of the Southern German nobility, but also her education in Salzburg, "*in superiori castro eiusdem urbis*", where she spent several years of her youth. It also provides interesting details about the relations between the women's community and the world outside, such as the *magistra*'s education before her entry into the community and the fact that her preaching and advice were considered so powerful, that not only did she have the authority to scold persons of lower rank, but also bishops and archbishops!⁴⁵ And she does not seem to have been the only one to have done so, as the extant letters and correspondence of the women's community of Admont suggest.

The most prominent letter writer is pope Innocent II, who, in a short letter of 1 April 1139, praises the nuns' topical virtues and exemplary lives.⁴⁶ More interesting, though, are the letters written by Gerhoh of Reichersberg (1092/94-1169), a contemporary intellectual and spiritual authority. He fostered demonstrably intense contacts with Admont, in particular with abbot Gottfried⁴⁷ and

⁴⁵ For the quotation from Irimbert, see n. 21 above; *Vita magistrae* 2: "... non solum sui compares et similes vel se inferiores de malo opere dampnabat et reprehendebat, verum etiam episcopos, archiepiscopos, potentes quoque invehere et de reddenda ratione constanter ammonere non devitabat. ... non immemor originis, nam ex illustrissimis Salzpurgensis ecclesie ministris oriunda exstitit, ibique in superiori castro eiusdem urbis educata aliquos annos iuventutis sue exegit".

⁴⁶ Pope Innocent's letter is printed in WICHNER, "Nonnenkloster", p. 305, annex III (after Cod. Admont. 567); see also WICHNER, *Geschichte* 1, p. 249, and ZAHN, *Urkundenbuch des Herzogthums Steiermark*, 1, No. 176: "Innocentius episcopus servus servorum Dei. Dilectis in Christo filiabus sanctimonialibus Admuntensis monasterii ... Deo magnas gratias agimus, qui in fragili sexu tantam virtutis constantiam dedit et sic vos in suo amore consolidavit et, ut ita dicamus, viriles in suo sancto officio effecit. ... Sponso itaque immortalis spiritus sancti cura desponsate, contemptis omnibus ad amplexum et aspectum eius sine intermissione suspirate. ...".

⁴⁷ For Gerhoh's biography, see the comprehensive study by P. CLASSEN, *Gerhoch von Reichersberg: Eine Biographie: Mit einem Anhang über die Quellen, ihre handschriftliche Überlieferung und ihre Chronologie* (Wiesbaden, 1960); cf. also ID., "Aus der Werkstatt Ger-

the women's community, for whom he seems to have acted as a spiritual advisor. Though most of his letters to women's communities on exegetical questions and liturgical practice can only indirectly be related with Admont's nuns, there is important evidence of their close contacts.⁴⁸ In one of his letters addressed to the "most beloved sisters in Christ at Admont" ("*charissimis in Christo sororibus Admontensibus*"), dated c. 1140, Gerhoh replies to their questions ("*iocundissimis vestris inquisitionibus*") and explains his reason for interpreting a certain Psalm in writing by saying he was kept from further oral explanations in Admont because he had to leave the nuns unexpectedly early.⁴⁹

This seems particularly interesting with regard to the formal regulations of claustration. It raises the question how strict enclosure may have been if it provided opportunities for direct communication on exegetical questions that involved several persons – something not easily conceivable through a grille, as Irimbert and others suggest. Several texts documenting the reform movements give us even more explicit details on how one may imagine these contacts. Whenever Theoger († 1120), a monk of Hirsau who had become abbot of St. Georgen in 1088, came to visit the women's community, the nuns jumped from their seats and competed to sit the closest possible to his feet!⁵⁰ In another letter by Gerhoh of Reichersberg, he addresses an unnamed nun who obviously did not live in a community, but often visited "our sisters" – behaviour compli-

hochs von Reichersberg: Studien zur Entstehung und Überlieferung von Briefen, Briefsammlungen und Widmungen", in: *Ausgewählte Aufsätze von Peter Classen*, ed. J. FLECKENSTEIN et al. (Sigmaringen, 1983: *Vorträge und Forschungen* 28), pp. 379-430; and ID., "Zur Geschichte der Frühscholastik in Österreich und Bayern", *ibid.*, pp. 279-306.

⁴⁸ For a detailed argumentation about Gerhoh's relations to Admont's women's community, see LUTTER, *Geschlecht und Wissen*, pp. 109-119.

⁴⁹ Gerhoh von Reichersberg, Ep. 26, ed. in: *PL* 193, cols. 489-618, at cols. 607-611, esp. col. 607C: "*Iucundissimis vestris inquisitionibus non potui ad plenum satisfacere coarctatus eundi festinatione. Quam tamen festinationem forsitan Deus punivit, qui iter meum aliquantulum impedit, et volentem a vobis festinare prope vos aliquandiu tenuit. Si ergo propter vos vapula-vi, quia forsitan plurimum a vobis festinando peccavi, spero mihi Deum per vos posse placari, si pro me orabit: quod idipsum rogo ut faciatis, atque hoc scriptum in recompensationem suscipiatis pro eo, quod minus dixi, quam congrueret sanctissimis inquisitionibus vestris*".

⁵⁰ *Vita Theogeri*, ed. P. JAFFÉ, in: *Historiae aevi Salicae* (MGH SS 12), pp. 459-462, at pp. 459-460: "*Qui quotiens in conventum earum introivit, videres undique miro eum videndi vel audiendi studio circumfusus ruere Dei famulas, Ceu glomerantes apes, quotiens liquentia mella; stipant, et dulci distendunt nectare cellas. Ita nimirum Deo dicatae feminae spiritalis patris praesentia delectatae, suis e sedibus singulae proruperunt, sanctum et venerabilem virum quasi florem paradisi pretiosum undique circumdantes, et divini eloquii favos, quos ille ore facundo ac mellito gutture ructabat, in sui pectoris alveolo condebant*". I am grateful to Franz Felten for drawing my attention to this passage.

mented on by the pastoral adviser, even if he strongly advises her to stay with her “incarcerated” sisters.⁵¹

The example of Gerhoh’s letters illustrates the need which felt for contact that went beyond pastoral care and face-to-face communication. Another significant example is an extraordinary letter collection from the mid-twelfth century containing fragments of nineteen letters preserved on two sheets of parchment that have survived as a cover for a fifteenth-century wine register. The form of the booklet suggests that it was a copy-book: the individual letters, which may first have been drafted in this form, to be sent after some editing only later, were written by Admont’s nuns themselves.⁵²

With the records on the making of Irimbert’s sermon commentaries, the letters suggest that the sisters could handle complex processes of text production at different stages. The dossier also illustrates their knowledge and application of the *ars dictaminis*, and prove the high standard of education which was stated both by the *vita magistrae* and Irimbert’s report. The contemporary letter collection from the monastery of Reinhardsbrunn gives complementing information on the conditions, practices and importance of written communication.⁵³ In a letter dating between 1140 and 1168, a sister N. from Lippoldsburg addresses her brother Sindold, then librarian of Reinhardsbrunn. She tells him that she has not been able to complete the copy of a *Matutinale* he had asked for because of the dark and cold of the winter. Moreover, she needs additional parchment and two books with instructions on the *ars dictaminis*.⁵⁴

⁵¹ Gerhoh von Reichersberg, Ep. 4, ed. in: *PL* 193, col. 493C: “*Huius piae visitationis obsequium et tu, soror in Christo dilecta, nuper implesti, quando sorores nostras visitasti: quod ut saepius facias, mihi gratum esse scias, imo illi qui tibi dicturus est: Infirmus eram, et in carcere, et venistis ad me (Mt 25, 36). Atque utinam sic ad illum in carcere manentem venias, ut ab illo ulterius evagari non quaeras, nec ad charissimas amicas in saeculo visitandas!*” The term “our sisters” probably refers to the community of Reichersberg, where Gerhoh was provost.

⁵² The letters have been edited and brilliantly analyzed by A.I. BEACH, “Voices from a distant land: Fragments of a twelfth century nun’s letter collection”, *Speculum* 77 (2002), pp. 34-54; see esp. p. 42, with suggestions about the probable stages of production of these letters.

⁵³ *Die Reinhardsbrunner Briefsammlung (Collectio Reinheresbrunnensis*, ed. F. PEECK (München, 1952: *MGH Epp. Selectae* 5).

⁵⁴ *Reinhardsbrunner Briefsammlung*, pp. 80-81, No. 97: “... *Matutinalem librum, quem vestra caritas apud nos scribi postulavit, sciatis me summo cum studio usque ad Christi resurrectionem et non ultra perduxisse. Hiemis enim tempore, ne scriptura obscuraretur, atque illa et illa scribendo. Usque in pascha insistere huic operi non potui. Spero autem in nativitate beate virginis Marie nuncio vestro ad nos misso librum iam perfectum reportare posse. Et quia ad tres quaterniones de pergamenno mihi deesse video, per nuncium vestrum quantum sufficiat et duos libellos de preceptis dictaminis G. sorori nostre et herbam que ientiana dicitur transmittite*”. On technical devices and practical conditions for writing, see BRUNNER, “*Liber vitae, vitae*

In conformity with the *ars dictaminis*, all letters from the Admont collection start with a *salutatio*, followed by an animating *exordium*; then comes the *narratio* with the basic background on the matters discussed, then the *petitio*, stating the aim of the letter, and the text is completed by a *conclusio*.⁵⁵ Apart from the authors' technical and stylistic competence, the short fragments also show their knowledge of Scripture and their exegetical skills, which seem to be closely related. Most of the letters are interlaced with quotations from the Old and New Testaments to legitimize the arguments put forward.⁵⁶

Most letters deal with questions of patronage and interventions on behalf of relatives and other persons. Once, several nuns intervene for some of their fellow brethren, who have been accused before the archbishop of Salzburg.⁵⁷ The authors frequently and insistently remind their (usually male) relatives of their duties towards the monastic community and to the letter writers individually. An unnamed nun, for instance, mourns the unfaithfulness of one of her relatives. He had obviously promised to join her in leaving the world and choosing the spiritual life, but then had abandoned her, returning to his people and leaving her alone in a distant land. She feels consigned to oblivion as if she had already died, because he had even separated her, without mercy, from all her friends' consolations.⁵⁸ Such complaints about separation from relatives, friends and

libri", in: *Ireland and Europe in the Early Middle Ages: Texts and Transmission*, ed. P. Ní CHATAÍN and M. RICHTER (Bodmin, 2002), pp. 215-229. The two books mentioned in the letter may refer to Adalbert of Samaria, *Praecepta dictaminum*, ed. F.-J. SCHMALE (München, 1961: *MGH Quellen zur Geistesgeschichte des Mittelalters* 3), and Hugh of Bologna, *Rationes dictandi prosaice*, ed. L. ROCKINGER, *Briefsteller und Formelbücher des elften bis vierzehnten Jahrhunderts* (München, 1864: *Quellen und Erörterungen zur bayerischen und deutschen Geschichte* 9, repr. New York, 1961), p. 60.

⁵⁵ For seminal typologies, see, for instance, G. CONSTABLE, *Letters and Letter-Collections* (Turnhout, 1976: *Typologie des sources du moyen âge occidental* 17); H.M. SCHALLER, "Briefe und Briefsammlungen als Editions Aufgabe: Die Zeit nach 1100", in: ID., *Stauferzeit: Ausgewählte Aufsätze* (Hannover, 1993: *MGH Schriften* 38), pp. 409-416; F.J. WORSTBROCK, M. KLAES and J. LÜTTEN, *Repertorium der Artes dictandi des Mittelalters*, 1, *Von den Anfängen bis um 1200* (München, 1992: *Münstersche Mittelalter-Schriften* 66).

⁵⁶ For instance, letters No. 2 and No. 14 in BEACH, "Voices", pp. 52-53.

⁵⁷ Letter No. 18, edited in BEACH, "Voices", pp. 53-54: "*Dilecto domino et patri N. proposito humiles Christi? ancille N. et N. sorores Admontenses incluse obedientie et orationis obsequium in domino forti in perpetuum* (Is 26, 4). *Dignatio gratie vestre et dilectionis qua nos pre ceteris sororibus specialiter dignum duxistis fovere ... quosdam e monachis nostris apud dominum archiepiscopum esse accusatos ac gratia illius penitus privatos*".

⁵⁸ Letter No. 2, edited in BEACH, "Voices", p. 52: "... *Scio et scire me doleo quia fidelem cognatum in te non habeo, sed potius baculum harundineum, inutilem et vacuum, cui si homo fuerit ininis perforabit manum eius* (Is 36,6). *Nam fidei debite penitus oblitus in me, cum tu ipse in exilio manere horruisti et ad tuos redire properasti, me in peregre positam oblivioni tradidisti*

patrons and the yearning to see them again soon, are a constant motif in the letters sent by these women from the secluded world of the monastery. The suffering from distance and separation and the desire to overcome them by written communication, to make the beloved person 'present' by means of the physical letter, had been a prominent theme in letters since Antiquity. St. Jerome (c. 350-420), for instance, articulates this idea of 'embodiment' when he writes in one of his letters from the desert to his friends in Aquileia: "Now I talk to your letter, I embrace it, it talks to me, ... and it seems as if it were you keeping me company here".⁵⁹

The Admont sisters articulate their feelings in a similarly powerful way, using biblical metaphors.⁶⁰ One unnamed nun addresses a woman outside the cloister with the words that she will be among her friends by means of this letter, even if physically far away.⁶¹ Literacy, here in form of epistolary contacts, has a vital function, underpinning face-to-face communication (as in the practice of the *cura monialium*), as an alternative to personal contacts, and also for the construction of a distinctive world. Just as the ideals of asceticism and chastity, the topos of seclusion, inseparably connected with the wish of 're-presentation' of the absent beloved, is an intrinsic part of the ideal of the monastic way of life. We do not know much specific about the historical persons behind the voices of the women writing these letters; the sources only rarely allow a glimpse of their social background, let alone of their motives to choose this way of life. These fragmentary documents nevertheless confirm the fundamental ambivalence of

quasi mortuam (Ps 30, 13). Ne misertus es mei, quam omnium amicorum solatio destitutam esse optime nostri".

⁵⁹ Hieronymus, *Epistulae*, ed. I. HILBERG, 3 vols. (Wien, 1910-1918: CSEL 54, 55, 56.1-2), No. 7, quoted from G. SIGNORI, "Eine Freundschaft, die aufhören kann, war niemals wahre Freundschaft: Hieronymus und die römische Asketin Marcella", in: *Meine in Gott geliebte Freundin: Freundschaftsdokumente aus klösterlichen und humanistischen Schreibstuben*, ed. G. SIGNORI (Bielefeld, 1995: *Religion in der Geschichte: Kirche, Kultur und Gesellschaft* 4), pp. 16-28, at p. 18; cf. C. WHITE, *Christian Friendship in the Fourth Century* (Cambridge, 1992), at pp. 129-145; B.P. MCGUIRE, *Friendship and Community: The Monastic Experience, 350-1250* (Kalamazoo, 1988: *Cistercian Studies* 95), at pp. 57-66. Similar examples are provided by the letters between Boniface and his (often female) correspondents in the Anglo-Saxon mission; see, for instance, H. URBAHN, "'Ich umfasse Dich mit höchster Liebe': Der heilige Bonifatius und seine spirituellen Schwestern", in: *Meine in Gott geliebte Freundin*, pp. 40-49.

⁶⁰ See, for instance, letter No. 13, edited in BEACH, "Voices", p. 52: "... Sicut sitiens aquam et sicut estuans desiderat umbram (cf.. Ps 41,3 und Eccli 26,15), sic nos desideramus videre faciem vestram. Confidimus enim et sine dubio credimus, quia pater misericordiarum et deus totius consolationis (2 Cor 1, 3) in loco nostre peregrinationis nobis fidelem amicum previdit et concessit in vobis".

⁶¹ BEACH, "Voices", pp. 43-44.

religious ideals and actual practice represented in many texts of the reform movements.

The letters reinforce the evidence for the Admont nuns' strict enclosure; on the other hand, they also testify to their frequent contacts with persons outside the cloister. This stresses their (at least virtual) mobility and visibility, in contrast to the immobility meant by the Benedictine prescription of *stabilitas loci* and to the physical invisibility traditionally associated with claustration. Their contacts and interventions show the nuns' active role within social networks, their political power as members of wealthy noble families, and their social influence as intercessors in spiritual and secular matters.⁶² They use their education and their social knowledge to foster their social relations and their political connections.

We get a similar impression of ambiguity concerning the normatively gendered pastoral practice. Only men could be priests and fulfil pastoral tasks in the narrow sense of the word, such as celebrating Mass or administer sacraments. Although these tasks were crucial, they were merely a part of the pastoral duties to be fulfilled, especially in times of reform. Sermons had to be composed and delivered, exegetical commentaries drafted, copied, and illuminated, letters written and issued, political and spiritual interventions conducted inside and outside the monastery for both the living and the dead. In Admont all these tasks were carried out not only by men, but also by women.

VI.

Intensive reform involved both literate competences and trust in literacy, as it demanded extensive writing to be done. To meet the challenges, all resources and competences available were made use of, irrespective of gender-specific classifications. Religious men and women in Admont seem to have found ways to live up to the needs of the day while observing their religious rules. To do so, they created temporary spaces for action that were not envisaged by their rules and ideas, without contradicting them explicitly. These differences between theory and practice only become visible in written accounts. As Irimbert's account of the Admont nuns' living conditions and the *vita magistrae* suggest, these written texts seem to have modified practice and to have shaped new role models. The same may be assumed for the role of correspondence. Many ideas

⁶² LUTTER, *Geschlecht und Wissen*, pp. 252-280.

that later were to become canonical knowledge and part of religious and social norms were developed, shaped and modified in written dialogue about the realities of religious life. They came about within communicative patterns that provided trust and authority by referring to well-known traditions and habitual practices, but which were open to change. In a comparable way, the twelfth-century reform movements undertook biblical exegesis and the interpretation of the writings of the Fathers. This is shown by the answers given by Gerhoh of Reichersberg to questions of Admonts' "*sanctimoniales litteratae*" and other communities' female members.⁶³ The active involvement of women's communities suggests that their direct or indirect intellectual influence on the shaping of contemporary theological ideas and monastic life may have been much more extensive than previously assumed.

Negotiation took place between the needs and practices of the day and their stabilization in written texts. The only models that seem to have been successful seem to be those that were continuously written down and therefore remained visible and negotiable over longer periods. That leaves us with another range of open questions. What decides which texts (and the models represented and shaped in them) are continually being copied, reformulated and modified in writing over generations to become generally trusted norms while others do not? Why do existing, articulate alternatives cease to be practised, narrated and remembered? Why, in other words, are some texts trusted more than others? Might it be that the processes that make some forms and categories of thinking and living more trustworthy than others are always embedded in the complex power structures that cause and effect them? If we wish to provide fuller answers to our questions, it is important to make the texts' processes of construction visible. This will show that the 'success stories' did not develop 'naturally', as a matter of course. The exercise may help to make historians sensitive to the alternatives that are being forgotten – even if it is that more difficult to trace them.

⁶³ Gerhohi praepositi Reichersbergensis opera inedita, ed. D. and O. VAN DEN EYNDE and A. RIJMSDAEL, 2 vols. in-3 (Rome, 1955-1956: *Spicilegium pontificii Athenaei Antoniani* 8-10), 2.2, pp. 366-376, with detailed information on the extant manuscripts. LUTTER, *Geschlecht und Wissen*, pp. 230-234, provides an edition based on the two manuscripts Classen did not consider in his work. Regarding contents, see also D. VAN DEN EYNDE, *L'oeuvre littéraire de Gérhoh de Reichersberg* (Rome, 1957: *Spicilegium pontificii Athenaei Antoniani* 11), p. 245.

Part VII: Ausblick

Trust: Some Methodological Reflections

DOROTHEA WELTECKE

I.

We all know what trust is. We consider trust to play a part in our close relationships, between our friends and loved ones and us. Trust is a ubiquitous element of our everyday life; it is referred to in advertisements, in politics, and in economical contexts. We trust (or do not trust) in God, in the harmlessness of beef, or in the new market (see fig. 1). Despite this seeming self-evidence, however, trust sparks intense scholarly interest. Its nature and function have been the subject of theoretical and practical analysis in sociology, theology, and philosophy since the beginning of the twentieth century. Interest grew even livelier in the second half of the last century. Challenges such as recent experiences with totalitarian regimes, with intellectual movements like existentialism¹ and an increasing interest in psychology and sociology,² provoked debates. The massive scholarly literature produced on trust since the 1970s and 1980s until the present is as manifold and diverse as are the different interests of moral philosophers, psychotherapists and economic strategists.³

¹ O.F. BOLLNOW, *Neue Geborgenheit: Das Problem einer Überwindung des Existentialismus* (Stuttgart and Köln, 1955); B. HÖMBERG, *Hermeneutik des Vertrauens: Die philosophisch-pädagogische Anthropologie O.F. Bollnows*, Diss. (Münster, 1978).

² R. SCHOTTLÄNDER, *Theorie des Vertrauens* (Berlin, 1957); E.H. ERIKSON, *Identity and the Life-Cycle* (New York, 1959) (Erikson developed the influential concept of 'basic-trust' in this monograph).

³ I am not aware of any general bibliography on trust. The basic make-up of the vast field as well as bibliographical surveys are provided, however, by the increasing number of entries in

Ute Frevert noticed that apparently only the historians remained unaware of this ongoing debate. In contrast to ideas like love or faith, trust until now has not been subjected to historical analysis. If the term was used in historical accounts at all, simple pedestrian definitions were employed, which served the historians' purpose perfectly well in the past, and probably would continue do so in the future.⁴ Frevert suggested historians should catch up and put the *theories* of trust into historical practice and, in doing so, make use of much more elaborate definitions and ideas of trust. Frevert herself has written several programmatic articles and initiated preliminary studies at Bielefeld University.⁵ The present paper originates from this context.⁶ Independently, Petra Schulte

encyclopedias. See: e.g. T. GLOJNA, "Vertrauen", in: *Historisches Wörterbuch der Philosophie*, ed. J. RITTER, 13 vols. (Basel, 1971-2004), 11 (2001), pp. 986-990; K. JONES, "Trust", in: *Routledge Encyclopedia of Philosophy*, ed. E. CRAIG, 10 vols. 9 (London etc., 1998), 9, pp. 466-470; C. WHITBECK, "Trust", in: *Encyclopedia of Bioethics*, ed. W.T. REICH, revised edn., 5 vols. (New York, 1995), 5, pp. 2499-2504. They have departed considerably from the earlier ideas that were presented at the beginning and at the middle of the twentieth century – which is significant in itself. See W. MORGAN, "Trust", in: *Encyclopedia of Religion and Ethics*, ed. J. HASTINGS, 13 vols. (New York, 1928; repr. 1961), 12, pp. 464-465. Fundamental criticism of some specifically Western sociological and philosophical definitions of trust as a means of rational and economical risk management has been brought forward by both theologians and marxists; cf. S. BUSSE and C. SCHIERWAGEN, "Vertrauen", in: *Europäische Enzyklopädie zu Philosophie und Wissenschaften*, ed. H.J. SANDKÜHLER *et al.*, 4 vols. (Hamburg, 1990), 4, pp. 719-721; R. STRUNK, "Vertrauen", in: *Theologische Realenzyklopädie*, ed. G. KRAUSE and G. MÜLLER, 36 vols. and *Abkürzungsverzeichnis* (Berlin and New York, 1971-2004), 35 (2003), pp. 71-76; see also M. WEIMER and J.-M. CHARPENTIER, "Vertrauen", in: *Evangelisches Kirchenlexikon*, ed. E. FAHLBUSCH and U. BECKER, 5 vols. (Göttingen, 1986-1997), 4 (1996), pp. 1169-1173. The French perspective should also be taken into account; see, e.g. H. JAEGER, "Foi et confiance", in: *Dictionnaire de Spiritualité*, ed. M. VILLER *et al.*, 17 vols. (Paris, 1937-1995), 5 (1953), pp. 1405-1410; H.-D. NOBLE and M. VILLER, "Confiance", in: *Dictionnaire de Spiritualité*, 2 (1953), pp. 1405-1412.

⁴ A case in point is M. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2nd edn. (Oxford, 1993), pp. 294-327, "Trusting writing". Cf. also E. SCHUBERT, "Die Grundlage des Umgangs: Misstrauen und Vertrauen", in: ID., *Alltag im Mittelalter: Natürliches Lebensumfeld und menschliches Miteinander* (Darmstadt, 2002), pp. 209-211.

⁵ U. FREVERT, "Vertrauen: Historische Annäherungen an eine Gefühlshaltung", in: *Emotionalität: Zur Geschichte der Gefühle*, ed. C. BENTHIEN, A. FLIEG and I. KASTEN (Köln, 2000), pp. 178-197; EAD., "Vertrauen in historischer Perspektive", in: *Politisches Vertrauen*, ed. R. SCHMALZ-BRUNS and R. ZINTL (Baden-Baden, 2002), pp. 39-59; EAD., "Vertrauen – Eine historische Spurensuche", in: *Vertrauen: Historische Annäherungen*, ed. EAD. (Göttingen, 2003), pp. 7-66.

⁶ D. WELTECKE, "Gab es 'Vertrauen' im Mittelalter? Methodische Überlegungen", in: *Vertrauen: Historische Annäherungen*, pp. 67-89. I would like to thank the editors for the opportunity to update my reflections on trust and to present some aspects of them in English. I would especially like to thank Petra Schulte for her patience and for our discussions about trust in Bielefeld and elsewhere.

had already started to do precisely what Frevert recommended and may take the credit for being the first to have worked with Luhmann's theory of trust in historical analysis.⁷

The significance of trust as a crucial category of everyday life, and also of an expanding field of investigation in the social and economic sciences, is evident. Therefore, there is no need to establish the reasons for the historians' interest in trust. Since they are only just starting to work with the theories, however, some methodological experiments and reflections may be helpful. In some way the late start of the historians may even have its advantages. Since they have not taken part in the debates, theirs could be the detached position of the observer, which might allow for some criticism, and also for some new insights.

II.

Medievalists observe two important deficiencies in the current debates on trust. First, social scientists measure the quantity of trust and analyze why and how trust emerges or disappears. Their results are used to generate political, psychological and economical strategies. These techniques are considered methodologically adequate, because trust is held to be a phenomenon inherent in human nature, which only needs the right conditions and care to blossom. From this perspective, trust is seen as a scarce natural resource.⁸

Problems arise, however, when historians wish to employ trust as a historical category that is independent of the semantic changes of the various historical terms. Trust slips through our hands amorphously as we try to get hold of its exact meaning, and to distinguish it from related ideas and the terms employed to talk about them. We discover that these difficulties are not solved on the level of scientific literature: there are in fact great differences within and between the psychoanalytical, philosophical, theological, sociological and socio-psychological definitions of trust. Simultaneously, fundamental distinctions

⁷ P. SCHULTE, "*Scripturae publicae creditur*": *Das Vertrauen in Notariatsurkunden im kommunalen Italien des 12. und 13. Jahrhunderts* (Tübingen, 2003: *Bibliothek des Deutschen Historischen Instituts in Rom* 101). For references to Luhmann's theories on trust, see *infra*, note 11.

⁸ The metaphor of the natural resource is used regularly; there is reason to assume that one has forgotten that it is a metaphor. See, e.g. M. SEIFERT, "Verlust einer riskanten Ressource – Vertrauensfall im Zuge des ostdeutschen Transformationsprozesses", *Industrielle Beziehungen: Zeitschrift für Arbeit, Organisation und Management* 6.2 (1999), pp. 151-190.

such as, e.g. the difference between trust, faith, hope and reliance, the relation between trust, emotion and rationality or between trust, rationality and ethics remain unclear. Surprisingly, a hundred years of intense research have not achieved even a basic consensus about what trust is. Many contributions to the field therefore start their analysis by stating what ‘most’ or merely ‘many’ scholars believe the nature of trust should be.⁹

If there is no scientific consensus about what trust is, the identification of trust in historical contexts, the historical explanation of its emergence, is simply impossible, despite our street-level certainty. Neither by slavishly following our authorities, nor by the eclectic use of theories can we solve this methodological problem. Besides, the theories are neither historically generated nor are they historically reviewed; their naive use might therefore lead to anachronism. A systematic summary and analysis of the controversies is a pressing desideratum.

Secondly, the assumption that trust is a crucial function of all societies, proved especially fruitful for one specific branch of the sociology and economy of trust. The price paid for this discovery seems to have been a rather equivocal definition: while trust is considered a neutral, technical idea, it is defined as a form, or rather *any* form, of rational risk management in situations of limited knowledge and control, enhancing the efficiency of cooperation.¹⁰ This definition, or rather this common denominator to which different theories have been reduced, differs a great deal from the use of ‘trust’ in everyday life. This is also true for the elaborate theories. Neither Luhmann’s “mechanism to reduce social complexity”¹¹ nor Coleman’s morally and emotionally neutral conception of trust¹² are congruent with the trust Prime Minister Tony Blair and President

⁹ See, e.g. R. HARDIN, “The street-level epistemology of trust”, *Analyse und Kritik* 14 (1992), pp. 152-176, at p. 152: “A widely held view is that trust and distrust are essentially rational”; N. BRAUN, “Altruismus und Vertrauen”, *Analyse und Kritik* 14 (1992), pp. 177-186, at p. 177: “Vertrauen ist nach Ansicht vieler Sozialwissenschaftler...”; see also JONES, “Trust”, p. 465: “Most people writing on trust accept the following claims...”.

¹⁰ Cf. GLOJNA, “Vertrauen”, p. 988: “Gemeinsamer Nenner ist – ausgehend von philosophischen und soziologischen Bestimmungen des Vertrauens im 20. Jahrhundert – die Auffassung von Vertrauen als Sich-Verlassen auf ein Gegenüber angesichts eines ungewissen und risikohaften Ausgangs einer Handlung unter freiwilligem oder erzwungenem Kontrollverzicht”.

¹¹ N. LUHMANN, *Vertrauen: Ein Mechanismus der Reduktion sozialer Komplexität*, 3rd edn. (Stuttgart, 1989; original edition 1968). Translation: N. LUHMANN, “Trust: A mechanism for the reduction of social complexity”, tr. H. DAVIS, J. RAFFMAN and K. ROONEY, in: *Trust and Power*, ed. T. BURNS and G. POGGI (Chichester, NY, 1973), pp. 4-103.

¹² J. COLEMAN, *Foundations of Social Theory* (Cambridge, MASS., 1990). Both Luhmann’s and Coleman’s thoughts are constantly reviewed and continually developed; see, e.g. *Norm, Herrschaft und Vertrauen: Beiträge zu James S. Colemans Grundlagen der Sozialtheorie*, ed. H.-P. MÜLLER and M. SCHMIDT (Opladen, 1998); H. HARDIN, “Street-level epistemology”, and

George W. Bush referred to between autumn 2002 and 2003. Other obvious examples come to mind.

On the other hand, there are existing discourses in political strategies of the twentieth century, especially in authoritarian and dictatorial contexts, which could be disqualified as not being discourses about trust – which they positively are – but discourses about slavish obedience, naive loyalty, authoritarian power, and unscrupulous manipulation – which they *also* are. That is to say, historical discourses about trust, e.g. in the Soviet Union or in the German Empire during the last years of the First World War,¹³ do not fit into the framework of values and conceptions that modern scientific discourses about trust in Western Europe and America take for granted: these are human rights, representative democracy with its means of institutional security and control, and moderate capitalism.¹⁴ Inherent in the sociological idea of trust is the notion that trust is not binding in a juridical sense, and, different from other forms of risk-management by means of power, law or money, that there are no (juridical) sanctions for a breach of trust. The implementation of existing theories to discourses different from the Western and democratic discourses of trust might cause distortions. But the modern origins of the trust theories and their consequences are not taken into account – quite the contrary.¹⁵

Can something on which so little consensus is possible, which is thought to exist in contexts as different as those between Führer and people, between individual businessman and global management, or between mother and infant, be a natural phenomenon ‘as such’ at all? On the contrary, the seeming identity between quite different phenomena is obviously the result of using the same term for them. This hypothesis is supported by the fact that ever more hybrid terms are now needed to distinguish between matters which are indeed felt to be different phenomena, like *Freundschaftsvertrauen* (‘trust in friendship’), *Systemvertrauen* (‘trust in systems’), *Urvertrauen* (‘basic trust’), etc.¹⁶

other essays in the issue of *Analyse und Kritik* in which his essay appeared.

¹³ A. SCHMIDT, “Eine Staatsführung in der Vertrauenskrise: Deutschland 1918”, in: *Vertrauen: Historische Annäherungen*, pp. 279-305; J.C. BEHREND, “Soll und Haben: Freundschaftsdiskurs und Vertrauensressourcen in der staatssozialistischen Diktatur”, *ibid.*, pp. 336-364; see also T. KÜHNE, “Vertrauen und Kameradschaft: Soziales Kapital im ‘Endkampf’ der Wehrmacht”, *ibid.*, pp. 245-278.

¹⁴ E.g. F. FUKUYAMA, *Trust: The Social Virtues and the Creation of Prosperity* (New York, 1996); *Vertrauen: Die Grundlage des sozialen Zusammenhalts*, ed. M. HARTMANN, C. OFFE (Frankfurt, 2001); see also *supra*, note 3.

¹⁵ See also the critique of O.G. OEXLE, “Luhmanns Mittelalter: N. Luhmann, Gesellschaftsstruktur und Semantik, Bd. 3”, *Rechtshistorisches Journal* 10 (1991), pp. 53-66.

¹⁶ See, e.g. GLOJNA, “Vertrauen”.

It is true that the sociology of trust points towards a very important social phenomenon: people rely on each other. But the reality of the disputes about the nature of trust, and the reality of the differences between specific forms of relying on one another, disguised by the use of identical labels, support the hypothesis that trust is culturally and specifically constructed. Today – and this is an intriguing historical fact in itself – there even exist ideas of trust which are the exclusive product of scientific debates.¹⁷ Consequently, trust is an object of historical transformation. Just as it is the custom to distinguish between *fides* in the Roman Empire and *fides* in the Germanic fealty, without assuming the existence of something like *fides* as such, trust as such does not exist.

III.

Trust, as we have seen, is commonly thought of as an unhistorical element of social life. It may have been labelled with different terms, but it remained the same. While this assumption was never historically reviewed, let alone historically proven, the present discourse of trust is also closely linked with conceptions of history, and especially with those of modern history.

Cases in point are the theories of trust of Georg Simmel¹⁸ and Niklas Luhmann.¹⁹ They agree that trust has become an important social factor only in *modern* societies. Simmel said that trust was necessary because of a lack of knowledge. He suggested that in modern societies knowledge about other people was decreasing, because he experienced modern societies to be too complex and too liberal, while people were too individual to know everything about each other. An individual represents many personalities in the different situations and societies he or she finds himself or herself in; the inner intentions, however, remain hidden from view. Here, trust is deeply attached to the modern idea of individuality and the limits of communication.

Niklas Luhmann constructed his theory of trust from similar assumptions. He observed that over-complexity does not prevent psychologically stable people from coping with the danger of using a car, or from cooperating with strangers, because the individual understands that he or she does not need to control, to understand, to foresee everything. Individuals delegate functions.

¹⁷ See above, notes 11-13.

¹⁸ G. SIMMEL, "Das Geheimnis und die geheime Gesellschaft", in: ID., *Soziologie: Untersuchungen über die Formen der Vergesellschaftung* (Frankfurt am Main, 1994), pp. 383-455.

¹⁹ LUHMANN, *Vertrauen*.

Their lack of knowledge is bridged by trust and in this way complexity is reduced. Through cooperation individuals multiply their own potentials and by that increase complexity again. Luhmann imagined our modern economical and social societies with their interdependent institutions as skyscrapers constructed on skeletons of trust. How accurately his metaphor describes the mechanism of the globalized world became apparent when two real skyscrapers collapsed in 2001.

While Simmel and Luhmann's analyses of their own time produce fruitful insights, they combined their theories with pseudo-historical theories about past, so-called 'traditional' societies. These theories were pseudo-historical in nature because they were constructed without empirical data. Traditional societies were a simple antitype of Simmel and Luhmann's idea of the modern world. Intimacy and familiarity were seen as their main characteristics. In traditional societies, people relied on each other as a matter of course. There were no individuals, no complexity, no unknown future, therefore no secrets, no risks and no trust. Luhmann's argumentation suggests that his 'traditional society' is to be understood as the 'precartesian society',²⁰ i.e., probably, the Middle Ages.

Here the medievalists' reviewing of the theories and pragmatic analysis could start. As Petra Schulte has shown, trust can be seen to operate, in ways analogical to those of Luhmann's world, in the Italian communal life of the twelfth and thirteenth centuries.²¹ It is true that, in commerce and on journeys, mistrust was often the order of the day. But since it was impossible to control, to know, and to understand everything, and since there was the need to reduce over-complexity in medieval worlds, too, people *were* in fact relying on one another, be it on the validity of their acts and charters, the quality of unfamiliar money, the expertise of priests and scholars, the loyalty of subordinates or friends, the correct transmission of money from Europe to the Holy Land or the experience of the seafarer. There were also different ways of managing the risk involved in relying on somebody else, whether in personal, political or religious relations. This is why there are so many historical studies about social conflict and social cohesion which could be reread fruitfully from the perspective of trust.²² But should they perhaps not only be reread but also be rewritten?

²⁰ LUHMANN, *Vertrauen*, p. 21.

²¹ SCHULTE, "*Scripturae publicae creditur*".

²² E.g. N. OHLER, *Reisen im Mittelalter* (München, 1986); G. ALTHOFF, *Verwandte, Freunde und Getreue: Zum politischen Stellenwert der Gruppenbindungen im frühen Mittelalter* (Darmstadt, 1990); V. EPP, *Amicitia: Zur Geschichte personaler, sozialer, politischer und geistlicher Beziehungen im frühen Mittelalter* (Stuttgart, 1999); K. GÖRICH, *Die Ehre Friedrich Barbarossas: Kommunikation, Konflikt und politisches Handeln im 12. Jahrhundert* (Darmstadt,

Otto Gerhard Oexle for one already voiced systematic and empirical criticism against the pseudo-historical constructions of the 'traditional societies'.²³ This romantic antitype is instructive only about the roots of the discourse about trust in the modern world.²⁴ Consequently, while it is plausible that the increase of social complexity in social systems is concomitant with an increasing employment of trust, Simmel and Luhmann's explanations for the emergence of trust are mere guesswork; they are not historically valid. Complexity and integration might have been the *cause*, not the effect, of what they defined as trust. And certainly an increase of cultural knowledge and a levelling of cultural differences is as much part of the modern world as is the highly idealized conception of individuality.

IV.

The title of an early modern travel story shows that changes both in trust as a *term* for a specific idea as well as in the different *forms* of understanding relationship and reliance are probable, even during the modern era:

2001); G. SIGNORI, *Versorgen, Vererben, Erinnern: Kinder- und familienlose Erblasser in der städtischen Gesellschaft des Spätmittelalters* (Göttingen, 2001). This selection of recommended books does not claim to be representative.

²³ E.g. O.G. OEXLE, "Das Bild der Moderne vom Mittelalter und die moderne Mittelalterforschung", *Frühmittelalterliche Studien* 24 (1990), pp. 1-22; ID., "Das Mittelalter und das Unbehagen der Moderne: Mittelalterbeschwörungen in der Weimarer Republik und danach", in: *Spannungen und Widersprüche: Gedenkschrift für František Graus*, ed. S. BURGHARTZ *et al.* (Sigmaringen, 1992), pp. 125-153; and ID., "Das Mittelalter und die Moderne: Eine folgenreiche Problemsgeschichte", in: *Mittelalter und Moderne: Entdeckung und Rekonstruktion der mittelalterlichen Welt*, ed. P. SEGL (Sigmaringen, 1997), pp. 307-364.

²⁴ In this context an observation of Gunilla-Friederike Budde comes to mind, who, in another set of theories on trust, discovered equally romantic images: the family as a refuge and the origin of trust as such (G.-F. BUDDE, "Familienvertrauen – Selbstvertrauen – Gesellschaftsvertrauen: Pädagogische Ideale und Praxis im 19. Jahrhundert", in: *Vertrauen: Historische Annäherungen*, pp. 152-184, at pp. 152-153. Budde explicitly refers to A. GIDDENS, *The Consequences of Modernity* (Cambridge, 1990), B. BARBER, *The Logic and Limits of Trust* (New Brunswick and New York, 1983), and B. MISZTAL, *Trust in Modern Societies: The Search for the Bases of Social Order* (Cambridge, 1996). These (mainly psychological and modernist) theorems, which originated in a discourse about trust in educational theories (BUDDE, "Familienvertrauen", pp. 155-161) are not congruent with Luhmann's theories, because they equate familiarity and trust. Luhmann, however, stresses the difference between these two concepts and saw trust as the more reflected and elaborate form of reliance (LUHMANN, *Vertrauen*, pp. 17-33).

The perillous and most unhappy voyages of John Struys, through Italy, Greece, Lifeland, Moscovia, Tartary, Media, Persia, East-India, Japan, and other places in Europe, Africa and Asia: containing I ... II. A due description of the several cities, towns, forts and places of trust, as to their site and strength, fortifications by nature, or art, etc. with other things worthy of note; and III. An exact memorial of the most disastrous calamities which befell the author in those parts (viz.) by ship-wrack, robberies, slavery, hunger, tortures, with other incommunities and hardships ...²⁵

'Places of trust' are not included in the sociological and psychological theories of trust. These places have to do with the problem of power and violence, not with knowledge. Power, on the other hand, is strangely absent from the sociological and psychological debates, although it has been very prominent in the political talk about trust in the twentieth century.²⁶

A history of the term 'trust' has not been written as yet. Apparently, the English etymology still poses problems. They cannot be solved in the present paper.²⁷ But it is clear that 'trust' and *Vertrauen* have the same roots. Together with a bundle of other terms, they probably origin from the Indo-European root **deru-* ('oak' or 'tree'), which meant 'strong', 'solid like a tree'. To this family also belongs Middle High German *trûnge*, which since the sixteenth century is a term for marriage. 'To trust', in German *vertrauen*, is related to *trauen*, which means both 'to trust' and 'to marry'. It is also related to Old English and German *Trost*, which originally meant 'to become solid'.²⁸ In modern German, *Trost* is simply a synonym for 'consolation' and 'comfort', while it is apparently no longer in use in English.²⁹ Accordingly, Middle High German *missetriuwe* is not simply a term for 'mistrust', but also includes the semantic field of 'not solid', 'to be desolate', 'to be in despair'.³⁰

²⁵ J. STRUYS, tr. J. MORRISON (London, 1683). There have been several editions.

²⁶ See *supra*, n. 13.

²⁷ "Trust", in: J.A. SIMPSON and E.S.C. WEINER, *The Oxford English Dictionary* 18 (Oxford, 1989), pp. 623-625, and in: *The Oxford Dictionary of English Etymology*, ed. C.T. ONIONS, with the assistance of G.W.S. FRIEDRICHSEN and R.W. BURCHFIELD (Oxford, 1966), p. 946.

²⁸ See also "trust, trusten, trusti, trustli, trustnen", in: R. LEWIS *et al.*, *Middle English Dictionary*, 6 (Ann Arbor, 1995), pp. 1137-1140, at pp. 1140-1142, pp. 1142-1144, pp. 1144-1145, p. 1145.

²⁹ "Vertrauen", in: G. DROSDOWSKI, *Duden: Das Herkunftswörterbuch: Etymologie der deutschen Sprache* (Mannheim etc., 1997: Duden 7), pp. 754-755. This passage summarizes WELTECKE, "Vertrauen", pp. 73-81.

³⁰ F. OHLY, "Missetriuwe, 'desperatio': Mittelhochdeutsche Wörter für die theologische Verzweiflung", *Zeitschrift für deutsche Philologie* 110 (1991), pp. 321-336; M. LEXER, *Mittelhochdeutsches Wörterbuch*, 1 (Leipzig, 1872), pp. 2171-2172.

The Old German synonyms for *vertrauen* are not confined to the terms just mentioned. *Vertrauen* apparently is based on semantic change and confluence of a great variety of terms: *Fidunge*, *gedranc*, *getriuwe*, *getriuwunge*, *getrûwen*, *hoffenunge*, *trôst*, *ûf genâde*, *gedingen*, *getroesten* and *ze sîner heimelîche gewinnen*.³¹ Several of these terms are semantically related to the binding formal contract, duty, law, and the *coniuratio*. In this sense, they greatly differ from sociological definitions of trust, which are characterized by informality. Again, the meaning ‘to marry’ is found in the sample.

Matthias Lexer wrote his renowned dictionary of Middle High German in the second half of the nineteenth century. Reading his entries on trust, it becomes apparent that his semantic understanding of *vertrauen* is neither congruent with contemporary German nor with the sociological definitions.³² Even within the last 130 years important changes in the semantic field took place.³³ Lexer saw *vertrauen* as a term for making a contract or taking an oath. He also felt that *vertrauen* means ‘to entrust’. While ‘entrust’ is semantically dominant in English ‘trust’ (‘trustee’), this semantic field is no longer included in present German *vertrauen*.

A Latin synonym for ‘trust’ suggested by the dictionaries is *fides*. And it is true, often translating *fides* by ‘trust’ is quite correct. In many respects, however, both the ancient and medieval *fides* differ greatly from modern ideas of trust, because of the differing ethical and juridical meanings inherent in the Latin word.³⁴ *Fides* was a category in symmetrical and asymmetrical relations. Synonyms for *fides* in other classical languages are, e.g. Greek *pistis*, Hebrew *’emunā(h)*, and Arabic *’īmān*.³⁵ Despite their different cultural and religious

³¹ “Vertrauen”, in: E. KOLLER, W. WEGSTEIN and N.R. WOLF, *Neuhochdeutscher Index zum mittelhochdeutschen Wortschatz* (Stuttgart, 1990), p. 470; see also p. 185, “Gottvertrauen”, p. 374 “Selbstvertrauen”.

³² LEXER, *Mittelhochdeutsches Wörterbuch*, 3 (Leipzig, 1878), p. 277.

³³ See also FREVERT, “Spurensuche”, pp. 13-20.

³⁴ C. BECKER, “Fides”, in: *Realenzyklopädie für Antike und Christentum* 7 (Stuttgart, 1969), pp. 801-839; K.-J. HÖLKESKAMP, “Fides – deditio in fidem – dextra data et accepta: Recht, Religion und Ritual in Rom”, in: *The Roman Middle Republic: Politics, Religion, and Historiography, c. 400-133 B.C.*, ed. C. BRUUN (Rome, 2000), pp. 223-250.

³⁵ See, e.g. E. GRUEN, “Greek πίστις and Roman fides”, *Athenaeum* N.S. 60 (1982), pp. 50-68; D. LÜHRMANN, “πίστις im Judentum”, *Zeitschrift für die neutestamentliche Wissenschaft* 64 (1973), pp. 19-38; A. JEPSEN, “יֵשׁוּעַ”, in: *Theologisches Wörterbuch zum Alten Testament*, ed. H.-J. FABRY, 1- (Stuttgart, 1973-), 1, pp. 313-348 (with bibliographical references); I. ABRAHAMS, J. HABERMANN and Ch. MANEKIN, “Belief”, in: *Encyclopaedia Judaica*, 2nd edn., ed. F. SKOLNIK and M. BERENBAUM, 22 vols. (Detroit etc., 2007), 1, pp. 290-294; L. GARDET, “’īmān”, in: *The Encyclopedia of Islam*, 2nd edn., ed. H.A.R. GIBB et al., 1- (Leiden, 1960-), 3 (1971), pp. 1170-1174.

origins, these terms are semantically very similar. They are much closer related to one another than to 'trust'. One important semantic feature they share is that they all are synonyms for 'religious belief'. Apparently there are ideas which link medieval Europe with the Near East, and separate them from the modern discourses for reasons which might be an object of historical research.

'Religious belief' subsumed the meaning 'to abide by a specific (religious, ethical, political) law'. 'Belief' is also closely related to 'faithfulness'. In this sense, all these terms are also related to 'truth', as abiding by the law is seen as 'doing the truth'. The Semitic terms even share the same root with their respective terms for 'truth'. These different aspects are mirrored by the words which are used to translate *fides* into German. When the late-eighth-century translator of the seventh-century *De fide catholica contra Iudeos* by Isidore of Sevilla (c. 570-636) translated the word *fides*, he used *triunua*, which is 'faithfulness', *chilaubin*, which is 'belief', and *chilaupnissa*, which is 'confession', *doctrina fidei*.³⁶

Terms which do not have the same prominent religious connotations are of course *confido*, *confidentia* and *fiducia*. But these terms are no synonyms of 'trust' in the modern sense either. *Fiducia* includes a wide semantic field to which belong 'courage' and 'strength'. Philological research has also shown that these terms are rather ambivalent, different from *fides*, which is almost exclusively seen as a positive category. They can also mean 'audacity', even 'hubris'.³⁷ And they are no basic categories for interpersonal relations as *fides* had been³⁸ or *trust* has become.

V.

Bible translations form a very useful corpus of sources, which has been intensely investigated by philologists. They connect the ancient and the modern world and supply us with materials which can be followed up into other genres. Surprisingly and significantly, however, 'trust' as a biblical term has not elicited much interest so far, neither from philological nor from theological scholarship. The reason is obvious: in the Bible, 'trust' is neither important, nor

³⁶ H. EGGERS, *Vollständiges lateinisch-althochdeutsches Wörterbuch zur althochdeutschen Isidor-Übersetzung* (Berlin, 1960).

³⁷ L.J. ENGELS, "Fiducia", in: *Reallexikon für Antike und Christentum* 7 (Stuttgart, 1969), pp. 839-877.

³⁸ EPP, *Amicitia*, p. 4.

especially frequently used – quite the contrary. Although the text is not medieval in a strict sense, a test drill in Martin Luther's German translation of the Bible helps to illustrate the problem to some extent. Martin Luther's employment of *Vertrawen* as verb and substantive in the Old Testament was compared with the original Hebrew and with the Vulgate and Medieval German translations respectively.³⁹ The findings can be summarized as follows.

Luther uses *vertrawen* very rarely, especially when compared to the frequency of the term in present-day Germany. Significantly, the use of the term increased in contemporary German revisions of his translation.⁴⁰ Originally it occurs just about 50 times in the entire text.⁴¹ *Vertrawen* as a rule does not translate *fides*, *ʾemunā(h)* or *pistis*. In the Old Testament, it represents Hebrew *bāṭaḥ* and *ḥāsāh*,⁴² which in the biblical context mean 'to be confident', but also 'to flee into security'.⁴³ That is to say, *Vertrawen*, just as the above-mentioned 'places of trust' our unhappy voyager referred to, have a substratum linking them to the existential problems of violence, war, security and power. This is quite different from risk-management. The assumption that this semantic field is indeed inherent in *Vertrawen* is supported by an English parallel: While Luther translates Ps 118, 8 and 118, 9 "*Es ist gut auff den HERRN vertrawen ...*", a twentieth-century English translation has "It is better to *find refuge* in the Lord ..."⁴⁴

Luther's use was more or less congruent with the medieval use of the German terms *getruwen* and *fērsehen*, but *vertrawen* had already expanded seman-

³⁹ The following results summarize WELTECKE, "Vertrauen", pp. 81-88. The Old German versions used were *Notker, Psalmen nach der Wiener Handschrift*, ed. R. HEINZEL and W. SCHERER (Straßburg, 1876) and *Zwei Psalter aus dem 14. Jahrhundert (Dresden Ms. M 287 und Hamburg in scr. 142) und drei verwandte Bruchstücke aus Schleiz, Breslau und Düsseldorf*, ed. H. EGGERS (Berlin, 1962).

⁴⁰ *Die Bibel nach der Übersetzung Martin Luthers*, ed. Deutsche Bibelgesellschaft (Stuttgart, 1984).

⁴¹ M. LUTHER, *Die gantze Heilige Schrifft Deudsch, letzte zu Luthers Lebzeiten erschienene Ausgabe*, ed. H. VOLZ with the assistance of H. BLANKE and F. KUR (Wittenberg, 1545; reprint München, 1972).

⁴² But not always; cf. "חסה", "בטח", in: G. LISOWSKY, *Konkordanz zum hebräischen Alten Testament* (Stuttgart, 1958), pp. 209-210, 514.

⁴³ A. JEPSEN, "בטח (*bāṭaḥ*)", in: *Theologisches Wörterbuch zum Alten Testament*, 1 (1973), pp. 608-615; J. GAMBERONI, "חסה (*ḥāsāh*)", in: *Theologisches Wörterbuch zum Alten Testament*, 3 (1982), pp. 71-83.

⁴⁴ *The New English Bible: The Old Testament* (Oxford and Cambridge, 1970). Concerning some reflections on Luther's rather negative attitude towards "Vertrauen" in people in the context of the semantic field 'to find refuge, to flee into security, to be under the sway of somebody', see WELTECKE, "Vertrauen", p. 87.

tically. It also seems to have included *gehoffen* and *gedingen*, i.e. ‘to hope’ and ‘to be committed to somebody’ respectively. Luther also uses *vertrawen* in the sense of ‘to marry’, ‘to engage’, as the semantic field of the word had been in Middle High German.⁴⁵ But *Vertrawen* in his understanding can also mean ‘obligation’, ‘duty’, and even ‘power of one person over another’: “... *ki ’ānōkī bā’altī bakem ...*” or “*quia ego vir vester*”, as the Lord says in Ier 3, 14, is translated by Luther as “... *ich wil euch mir vertrawen ...*”. In this passage, for once we understand that Luther has in mind something that is essentially different from our understanding of ‘trust’. Although phonetically virtually identical, the sense of *vertrauen* has radically changed. This is why in the modernised translation *vertrawen* in this passage has been substituted. Instead we find “... *denn ich bin euer Herr!*”, which reads like a literal translation of the Vulgate, rather than Luther’s rendering of the prophet’s words.

VI.

Through conflict regulation and integration, people in the Middle Ages developed social structures which enabled them to rely on one another. This kind of reliance, however, was not necessarily understood as ‘trust’ is today. ‘Trust’ can be seen as a specific combination of cultural practices, of emotional and rational phenomena, and of specific ideas and values connected with these practices and phenomena. Theories of trust might serve as a tool to become aware of the human ability to cooperate. But a history of trust should investigate these matters from more than one perspective and with a consideration of more than just one term, ‘trust’. Such a history should show how this cultural idea came into being, how and why trust discourses helped to shape the identity of the modern world, and why the term denotes – and by that identifies – matters as different as loyalty, cooperation, security and courage, to name just a few things. A history of trust should explain why, despite important changes and diversity, and despite its ideological and strategic use and misuse, trust managed to obscure its history to such an extent that it now seems a natural phenomenon.

⁴⁵ See *supra*, n. 30.



Fig. 1 A current example of the strategic use of ‘trust’.

“The Word Once Sent Forth Can Never Come Back”: Trust in Writing and the Dangers of Publication¹

IRENE VAN RENSWOUDE

From Distrust to Trust?

In Plato's *Phaedrus*, Socrates says that one should be wary of trusting the written word. In his opinion the spoken word is far more reliable, as the art of writing merely leads to ignorance and forgetfulness. To strengthen his argument, Socrates recounts the story of how writing was first invented. When the Egyptian god Thoth presented his latest invention – the alphabet – to the king of Egypt, the king immediately recognized the danger of this new discovery. He told Thoth:

You, who are the father of letters, have been led by your affection to ascribe to them a power the opposite of that which they really possess. For this invention will produce forgetfulness in the minds of those who learn to use it, because they will not practice their memory. Their trust in writing (*πίστις γραφης*) produced by external characters which are no part of themselves, will discourage the use of their own memory within them.²

¹ The following is conceived as a series of reflections intended to draw out some strands of conceptual continuity in the larger themes covered by this volume. On a future occasion, I hope to transform these exploratory sketches into a fuller and more detailed exposition. I would like to thank Mary Garrison, Mayke de Jong, Janneke Raaijmakers, Petra Schulte and Jaap-Hein Vrugink for inspiring discussion and helpful comments.

² Plato, *Phaedrus* 274e-275a, ed. E.H. WARMINGTON and tr. H.N. FOWLER (Cambridge, MA, and London, 1971: *The Loeb Classical Library* 36) p. 563. Much has been made of this particular passage in Plato's *Phaedrus* in studies on literacy. A short comment, however, should be given as to how serious Plato/Socrates exactly was in his warning against writing. Socrates'

Socrates continues to explain that forgetfulness is only the least of the problems writing may cause. Its main danger is, that the written word leads to abuse and misinterpretation. Once writing is let loose in the world it is like an orphan who has no parent to guide it and vouch for the validity of what is written.³ Therefore a wise man should not put his trust in writing. “He who thinks that he has left behind him any art in writing, and he who receives it in the belief that anything in writing will be clear and certain, would be an utterly simple person”.⁴

In our days the attitude towards writing has changed. We no longer share Socrates’ suspicion that writing leads inevitably to abuse and misinterpretation. Occasionally a rectification in a newspaper reminds us that we should not always trust what is printed, but all too often we start from the assumption that we can trust the public channels of communication – against our better judgement. Only when new media and new technologies of communication arrive, notes of warning are sounded that are not all that dissimilar to Socrates’ misgivings. How can we be sure that the information offered on the Internet is reliable? What will be the effect on the memory and social skills of the new generation that spends so much time at the computer? Socrates’ misgivings about the dangers of writing find a modern parallel in the 2000 film *Memento*, directed by Christopher Nolan. Here, the opposite view is espoused: trust nothing, except writing. The film plays with our absolute confidence in the reliability of the written word; it contrasts it with the frailty of interpersonal contact. The film’s protagonist, who suffers from short-term memory loss, writes notes to

words are after all recorded in a written text. Moreover, this passage is not entirely without irony: Socrates’ misgivings about the art of writing are put in the context of a playful dialogue. When Socrates has finished his story on the invention of writing, his interlocutor, Phaedrus, responds: “Socrates, you easily make up stories of Egypt or any country you please”. If one reads the continuation of the dialogue, it soon appears that Socrates’ concerns about the effects of writing had more to do with publication than with writing as such. I will return to this later on.

³ Plato, *Phaedrus* 275e, ed. WARMINGTON and tr. FOWLER, p. 567: “... when ill-treated or unjustly reviled it always needs its father to help it, because it has no power to protect itself”. Cf. Plato, *Phaedrus*, 276e, ed. WARMINGTON and tr. FOWLER p. 569: “... [written] words cannot defend themselves by argument and cannot teach the truth effectually”. The reason why the spoken word is more reliable, according to Socrates, is because one can inquire into the character of the speaker. If the speaker himself is of trustworthy character and background, one can safely assume that his words are reliable as well (Plato, *Phaedrus*, 275c, ed. WARMINGTON and tr. FOWLER p. 565). This cannot as easily be established about a written text, since a written text does not answer questions. Plato, *Phaedrus*, 275d, ed. WARMINGTON and tr. FOWLER p. 565: “Writing, Phaedrus, has this strange quality ... you might think [written words] spoke as if they had intelligence, but if you question them, wishing to know about their sayings, they always say one and the same thing”.

⁴ Plato, *Phaedrus* 275c, ed. WARMINGTON and tr. FOWLER, p. 565.

himself so as not to lose his grip on reality. These notes are not kept in his pockets, but are tattooed on his body, as a metaphor of the fixed, indissoluble character of writing. The tattooed messages remind him of past events, but they also tell him whom he can trust and whom he should distrust, since he cannot rely on memory to interpret the intentions of the people he meets. The writing on his body is all he can rely on, as he trusts his handwriting and he trusts the writing on his hand.⁵ His own body guarantees the truth of what he has written.

The story of the man without memory, developed by Christopher Nolan in his film, forms a marked contrast with Socrates' parable. It shows how the attitude towards writing has changed from distrust of writing to confidence in the reliability of the written word. Our society has come to depend on writing – even on writing in its progressively electronic forms. Still, some features have remained unchanged. In our days the Socratic axiom that writing needs a 'parent' to ensure we can trust its content still holds true. Whether this parent is a government institution, a newspaper editor, or a respectable academic publisher, some trustworthy authority has to vouch for the reliability of what is written. These modern analogies, however, do not imply that when Plato (by mouth of Socrates) speaks of *πιστις γραφης*, translated into modern English as 'trust in writing', he talks about the same kind of trust as we do. We cannot assume that 'trust' is a universal human quality, remaining virtually unchanged throughout the ages. As the articles in this volume show, we should beware of projecting modern notions of 'trust' onto earlier periods, without asking how 'trust' was perceived and construed in those periods.

The history of trust has yet to be written. The theme of 'trust' has found much interest over the past decades with students of sociology, economics, theology, philosophy and psychology. Indeed scholars from almost any discipline have tried to put their finger on the elusive workings of trust. Historians, however, have so far hardly entered the debate.⁶ In his review article "Why we need a history of trust", Geoffrey Hoskings offers an explanation why historians are lagging behind in this field of research. He argues that lately historians

⁵ See the discussion of Christopher Nolan's *Memento* in: S. SPENCE, *Figuratively Speaking: Rhetoric and Culture from Quintilian to the Twin Towers* (London, 2007: *Classical Interfaces*), pp. 29, 30. Towards the end of *Memento*, however, the protagonist discovers he cannot rely on his own writing either. He misinterprets what is written, because he cannot remember the intentions with which he wrote the messages to himself. I thank Wolfert van Egmond for reminding me that the end of the film conveys a message that is different from that of the beginning of the film, to wit: writing cannot be trusted, not even one's own writing.

⁶ For a lucid and thought-provoking discussion of recent scholarly interest in trust, see D. WELTECKE, "Trust: Some methodological reflections", in this volume.

have been more interested in conflicts, revolts and the decline of cultures, than in the forces that hold a society together, such as trust.⁷ The dominant trend in historical research has been to describe the history of societies as that of power relationships.⁸ Trust, despite its acknowledged elusiveness, is taken for granted as if it were a natural given, whereas it is as much a cultural construct as 'power'. Significantly, the most influential expert on the discourse of power, Michel Foucault, never engaged in a genealogy of trust.⁹

Most scholars agree that trust is a slippery concept, and that it is hard to pin it down in a single definition.¹⁰ Moreover, trust appears closely related to other cultural values that are near synonyms of trust, such as tolerance, acceptance, acquiescence, confidence, loyalty, familiarity, attachment and hope.¹¹ This makes it virtually impossible to discuss trust in isolation from these related values. And this is where philological research may prove valuable. What is needed is a history of the term 'trust' that considers all semantic strands and cultural building blocks that together make up the fabric of what we, today, call 'trust'.

⁷ The lack of interest among historians signalled by Hoskings is largely, but not entirely, true for classicists and medievalists. See, e.g. recent research on *amicitia* as one of the binding forces in ancient and medieval society: J. FITZGERALD, *Friendship, Flattery and Frankness of Speech: Studies on Friendship in the New Testament World* (Leiden, New York and Köln, 1996); G. ALTHOFF, *Amicitiae und Pacta: Bündnis, Einung, Politik und Gebetsgedenken im beginnenden 10. Jahrhundert* (Hannover, 1992: MGH Schriften 37); V. EPP, *Amicitia: Zur Geschichte personaler, sozialer, politischer und geistlicher Beziehungen im frühen Mittelalter* (Stuttgart, 1999: Monographien zur Geschichte des Mittelalters 44); J. HASELDINE, *Friendship in Medieval Europe* (Stroud, 1999).

⁸ G.A. HOSKING, "Why we need a history of trust" (review article July 2002), <http://www.history.ac.uk/reviews/articles>.

⁹ Foucault did, however, discuss *parrhesia* ('free speech') in his 1984 Berkeley lectures. The semantic history of *parrhesia* is closely related to that of *fiducia*. Although Foucault looked at *parrhesia* particularly in relation to power structures, his study could as easily be 'read' in relation to a discourse on trust. 'Read' is in this case indeed but a figure of speech, since Foucault's study of *parrhesia* concerns a series of lectures that he himself never published. The tape recordings of those lectures have been transcribed and edited in: M. FOUCAULT, *Fearless Speech*, ed. J. PEARSON (Los Angeles, 2001: *Semiotexte*). Foucault, who died in 1984, the year he gave the Berkeley lectures, never had the chance, and perhaps not even the intention, to turn them into a book for publication.

¹⁰ Hoskings summarizes current views on trust in two separate definitions: "the expectations based on good but less than perfect evidence, that events will turn out in a way not harmful to me" and "attachment to a person based on the well-founded but not certain expectation that he/she will act for my good."

¹¹ HOSKING, "Why we need a history of trust".

The articles in this volume shed light on one historical aspect of trust, to wit: trust in writing. The point of departure for many authors was the seminal book by Michael Clanchy, *From Memory to Written Record: England 1066-1307*, that was first published in 1979.¹² In a chapter called "Trusting writing", Clanchy showed that it took a long time before writing inspired trust. Among those who were new to the technology, it required more to engender trust in writing than merely learning how to read and write. Rather than by education, trust was inspired by a growing familiarity with the medium.¹³ People had to grow accustomed to the implications of literacy and its role in society. In moments of crisis, they tended to return to the old forms of proof, such as symbolic objects and personal testimony. Not because these older forms were necessarily thought to be better and more reliable, but because they were more familiar. Ten years after the publication of *From Memory to Written Record*, another pioneering book came out in the field of study of medieval literacy, to wit Rosamond McKitterick's *The Carolingians and the Written Word*.¹⁴ This study formed both a complement and an implicit critique of Clanchy's book and of other ground-breaking studies on literacy, such as Brian Stock's *The Implications of Literacy*, published in 1983.¹⁵ McKitterick showed that the process of engendering trust in writing started long before the eleventh and twelfth centuries, the period on which scholarly attention had been concentrated until then. She argued that to understand developments in literacy in the eleventh and twelfth centuries, one had to look at what happened in the previous

¹² M.T. CLANCHY, *From Memory to Written Record: England 1066-1307* (London, 1979).

¹³ This view corresponds to the social psychological theory of Diffusion of Innovation (DoI). Studies of the phenomenon of diffusion have shown that new technologies are usually not adopted immediately by societies. Different factors are at play in the process of adoption of technological innovations of which 'complexity' – the degree to which an innovation is perceived as difficult to use or understand – is but one. The success of the diffusion of a new technology in a social system also depends on factors like 'compatibility' – the degree to which an innovation is perceived as being consistent with the existing values, past experiences and needs of potential adopters and their communities. See E.M. ROGERS, *Diffusion of Innovations* (New York, 2003), pp. 16-17. This model helps to explain why, for example, a relatively complicated consumer innovation like the cellular phone diffused rapidly, while a user-friendly innovation like the car seatbelt took decades before it was widely used. Rogers describes diffusion as "a kind of *social change*, defined as the process by which alteration occurs in the structure and function of a social system". (ROGERS, *Diffusion*, p.6). See also N. LUHMANN, "Trust, a mechanism for the reduction of social complexity", in: *Trust and Power*, ed. T. BURNS and G. POGGI and tr. H. DAVIS *et al.* (New York and Toronto, 1979), chapter 3: "Familiarity and trust", pp. 18-23.

¹⁴ R. MCKITTERICK, *The Carolingians and the Written Word* (Cambridge, 1989).

¹⁵ B. STOCK, *The Implications of Literacy: Written Language and Models of Interpretation in the Eleventh and Twelfth Centuries* (Princeton, 1983).

period, that of the Carolingians and their successors. And to understand the Carolingian uses of writing, one needed to study the centuries following the demise of Roman rule. Brian Stock had spoken of a ‘rebirth of literacy’ in the eleventh century, a metaphor which implied a tragic death – or at least failing health – in the early Middle Ages. As McKitterick argued, however, Frankish society in the Carolingian period had already become largely dependent on the written word in the domains of religion, government, law and learning.¹⁶ To the Frankish elites of the eighth and ninth centuries, cleric and lay, man and woman alike, literacy was an essential element of a civilized Christian society – a society founded on the living Word of God put down in writing. The written word was therefore more than a technical tool or a means of communication; to the Franks it also represented a “resource, a guide, a key and an inspiration”.¹⁷ Michael Clanchy took the criticism on *From Memory to Written Record*, voiced by McKitterick and other specialists of the early Middle Ages, very seriously indeed, as may be seen from the enlarged second edition, published in 1993.¹⁸ Nevertheless, even if the consequences of literacy were felt already well before the eleventh century, and even if ‘trust in writing’ can be shown to have existed in the early Middle Ages, it remains to be seen whether the ‘trust in writing’ in, for instance, thirteenth-century England and that in Carolingian Europe had much in common.

Words for Trust

Earlier, I mentioned Plato’s “πιστις γραφης”, translated into modern English as ‘trust in writing’, and suggested that Plato’s πιστις probably referred to something very different from what we today understand by the word ‘trust’. Here we touch upon the main methodological problem of studying the history of trust. Notions like trust do not remain stable when they travel from one cultural community to another. Fragments of meaning are ‘lost in translation’, and new layers are accumulated as the idea of trust moves to new cultural-linguistic communities and is transferred into other languages. There is a difference between fourth-century BC Greek πιστις, Latin *fides* and modern English ‘trust’, just as there is a cross-cultural difference between French *confiance* and Ger-

¹⁶ MCKITTERICK, *The Carolingians and the Written Word*, p. 2.

¹⁷ MCKITTERICK, *The Carolingians and the Written Word*, p. 273.

¹⁸ M.T. CLANCHY, *From Memory to Written Record: England 1066-1307*, 2nd edn. (Oxford, 1993).

man *Vertrauen*, and these differences are revealing. When tracing the history of an idea like trust through the ages and through different discourse communities, shifts in meaning come to the fore. These shifts reflect the changing role of trust in society.

The classical Latin terms *fiducia* and *fides*, which became central to the medieval discourse on trust, underwent significant changes when they were adopted in Christian Latin.¹⁹ *Fiducia* had covered a broad spectrum of meanings, ranging from reliance, courage and self-confidence to pawn and assurance, and it could even refer to free speech.²⁰ The strand of meaning that was to become most influential in ecclesiastical Latin came from the juridical-financial sphere. When *fiducia* was first used in Christian discourse, it retained its original financial connotation. Putting one's 'trust' (*fiducia*) in God meant putting one's trust in God as a banker.²¹ God stood for a solid, risk-free investment that would surely be repaid in heaven.²² The link between religious trust and financial surety may seem far-fetched to us now, but a faint ring still lingers today in

¹⁹ C. BECKER, "Fides", in: *Reallexikon für Antike und Christentum*, ed. Th. KLAUSER and E. DASSMANN, 22 vols. (Stuttgart, 1950-), 7 (1969), pp. 801-839; L.J. ENGELS, "Fiducia", *ibid.*, pp. 839-877; T. GLOYNA, "Treue", in: *Historisches Wörterbuch der Philosophie*, ed. J. RITTER, 13 vols. (Basel, 1971-2007), 10 (1998), pp. 1473-1474; H. JAEGER, "Foi et confiance: Vocabulaire et notion de la *fiducia* à l'époque classique et patristique", in: *Dictionnaire de Spiritualité*, ed. M. VILLER *et al.*, 17 vols. (Paris, 1937-1995), 4 (1964), pp. 619-630; C.T. LEWIS and C. SHORT, *A Latin Dictionary* (Oxford, 1879, repr. 1996), pp. 746-748.

²⁰ *Fiducia* was one of the words with which the Greek concept of *parrhesia* ('boldness in speaking the truth') was translated into Latin. G. SCARPAT, *Parrhesia: Storia del terminie e delle sue traduzioni in latino* (Brescia, 1964). See also Isidore of Seville, *Etymologiae*, II, 21, 31, ed. W.M. LINDSAY, 2 vols. (Oxford, 1911), 2, without pagination: "*Parrhesia est oratio libertatis et fiduciae plena*".

²¹ H. JAEGER, "Parrhesia et fiducia (Etude spirituelle des mots)", *Studia Patristica* 1 (1959), pp. 221-239, at p. 234. I borrow the expression "God as a banker" from K. COOPER, "Through a hall of mirrors: Augustine of Hippo and the retrospective self", paper delivered at the conference *Ego Trouble: Authors and Their Identities in the Early Middle Ages* (Vienna, 21-22 May 2007). Kate Cooper also pointed to the fact that *credo* in Roman vocabulary could mean 'to lend', including the connotation of confidence, while *fides* also referred to 'credibility' in the financial sphere.

²² Hasso Jaeger explains that the idea behind this religious use of *fiducia* was not the Roman juridical-financial notion of *fiducia cum creditore*, but rather the custom of *fiducia cum amico*. This custom involved the (temporary) transference of one's properties to a reliable friend on the occasion of a long journey or exile. *Fiducia cum amico* was a legal practice as well as a social-ethical convention based on *amicitia* (JAEGER, "Parrhesia et fiducia", p. 234). For contrary views, see L.J. ENGELS, *Fiducia: Influence de l'emploi juridique sur l'usage commun et paléochrétienne* (Nijmegen, 1970: *Graecitas et Latinitas Christianorum primaeva: Supplementa*, fasc. 3), pp. 108-109; C.H. VAN REE, "Trust, trust-like concepts and *ius commune*", *European Review of Private Law* 3 (2000), pp. 453-462.

the engravings on euro coins and in the motto placed on the U.S. currency: “in God we trust”.²³

The juridical connotation of *fides* was reflected in the adage that *fides* was the foundation of justice. For centuries Christian authors quoted this classical saying, dutifully referring to its original source, the Roman rhetorician Cicero. Cicero, a statesman trained as a lawyer, had used *fides* to denote the kind of trust one puts in one’s fellow men, based on their proven reliability in juridical matters.²⁴ In Christian literature, however, *fides* gradually assumed the meaning of ‘faith’. This new, Christian meaning of *fides* in turn influenced the political discourse of the Middle Ages. The practice of fidelity, that social glue of medieval society, was inspired by *fides* as understood by Christian scholars since Late Antiquity. *Fides* in God informed the trust that people put in each other, to make commerce, marriage, administration, personal relationships and political alliances work. In early medieval admonition literature, *fides* and *fiducia* were virtues, held up to rulers for imitation, to guarantee the just government of the realm.²⁵ *Fides* was presented as a vital ingredient of the proceedings of justice, and *fiducia* as a character trait of the wise and magnanimous ruler.²⁶ In time, the maxim that *fides* was the foundation of justice no longer meant that one had to put one’s *fides* in the reliability of others who were good for their word (people who were ‘bona fide’ in the way Cicero had intended), but that one had to put one’s faith in God. Both *fides* and *fiducia* came to denote ‘faith’ in the sense of subscribing to the Christian teachings and, as a consequence,

²³ Cf. the motto that used to be engraved on the Dutch guilder: “God zij met ons” (in reference to Rom. 8. 31: “*Si deus nobiscum, quis contra nos*”). The same motto can now be found on the Dutch €2-coins.

²⁴ Cicero, *De officiis*, 1, 23, ed. G.P. GOOLD and tr. W. MILLER (Cambridge, MA, and London, 1975: *The Loeb Classical Library* 30), pp. 24-25: “The foundation of justice, moreover, is *fides* – that is, truth and fidelity to promises and agreements. ... *fides* is so called because what is promised is made good” (“*Fundamentum autem est iustitiae fides, id est dictorum conventorumque constantia et veritas. ... fiat, quod dictum est, appellatam fidem*”).

²⁵ On the role of admonition in political discourse in the Carolingian period, notably during the reign of Louis the Pious, see: M. DE JONG, *The Penitential State: Authority and Atonement in the Reign of Louis the Pious (814-840)* (Cambridge, forthcoming).

²⁶ Mirrors for princes, which were a popular literary genre throughout the Middle Ages, are an illuminating source to investigate the place allotted to *fides* in the ideal organization of society, as Petra Schulte has shown in the introduction to this volume. For early medieval examples of this genre, see J. BOVENDEERT, *Kardinale deugden gekerstend: De vier kardinale deugden van Ambrosius tot het jaar 1000* (PhD thesis Nijmegen. 2007); see also: R. MEENS, “Politics, mirrors of princes and the Bible: Sins, kings and the well-being of the realm”, *Early Medieval Europe* 7 (1998), pp. 345-357 and the classical work by ANTON, *Fürstenspiegel und Herrscherethos in der Karolingerzeit* (Bonn, 1968: *Bonner historische Forschungen* 32).

obeying to the (written) laws of the Church. This brief detour into the semantic development of the Latin terms *fides* and *fiducia* serves to show how words gained new connotations when they came to be used by a different discourse community.²⁷ They were to go through many more transformations, until residues of the thoughts and values they once referred to could denote our modern notion of 'trust'.

I will discuss two examples from the history of 'trust' to illustrate how political and cultural developments in the early Middle Ages influenced the notion and practice of 'trust'. I have selected two random but significant moments in early medieval history. The first moment dates to the eighth century, when, at the high point of Carolingian cultural 'renaissance', *fides* and *fiducia* found a place in the discipline of rhetoric in the work of Alcuin of York. The second moment is taken from the tenth century, when an exiled Italian bishop, Rather of Verona, reflected on the role of 'fidelity' in society and expressed his thoughts on the phenomenon of 'trust in writing'. He was among the first to argue that writing (and reading) lay at the heart of self-knowledge. Both Alcuin and Rather wrote texts that are halfway between rhetoric and political advice. They offer views on the role of 'trust' in society, but also on its relation to writing.

Alcuin of York and the Ethics of Writing

In his treatise *On Rhetoric and virtues*, written shortly before 800, the scholar and courtier Alcuin (735-804) instructed King Charlemagne on the principles of the morally correct behaviour befitting a Christian ruler.²⁸ The treatise, in the form of a dialogue, starts out with a discussion between the scholar and the king on the relevance of rhetoric for the government of the realm. Towards the end of the treatise, their conversation reaches the topic of

²⁷ For a further discussion of *fides*, see the articles of Uta Kleine and Petra Schulte in this volume.

²⁸ Alcuin, *Disputatio de rhetorica et de virtutibus sapientissimi Regis Karli et Albinii magistri*, ed. in: *Rhetores latini minores*, ed. C. HALM (Leipzig, 1863), pp. 525-550. The precise date of the text is still under debate, but lies somewhere between 794 and 800. On Alcuin's role as an admonisher and *parrhesiast* in instructing kings, nobles, bishops, clerics and his personal acquaintances, see M. GARRISON, "Les correspondants d'Alcuin", in: *Alcuin de York à Tours: Écriture, pouvoir et réseaux dans l'Europe du Haut Moyen Âge*, ed. Ph. DEPREUX and B. JUDIC (Rennes, 2004: *Annales de Bretagne et des Pays de l'Ouest* 111.3), pp. 319-331.

the virtues.²⁹ When Charlemagne asks about the nature of virtue, interestingly enough Alcuin offers a pagan philosophical definition. Virtue, he says, is “perfection of mind, dignity of character, reasonableness of life and excellence of habits”.³⁰ When Charlemagne asks what, then, distinguishes Christians from pagan philosophers, the answer is very short: only *fides* and baptism. Before Alcuin expounds the individual virtues, he addresses the pressing question why virtues (such as *fides* and *fiducia*) should be treated in a discussion on rhetoric. He lets the Emperor himself come up with the answer to this question. Charlemagne suggests: “what subject is better [to practice discourse] than that of the superiority of the virtues, each of which has the power to confer the greatest possible benefit upon our writing and reading?”.³¹ Charlemagne’s answer is slightly surprising. One would have expected him to stress the benefit of virtues for speaking, since rhetoric was, after all, traditionally the art of oratory. Instead, he points to the positive effects on *writing*. Alcuin reveals here the connection between ethics and rhetoric, between the art of living well and the art of speaking well. This connection had been present from the beginning of the history of rhetoric. A good orator was by implication also a good man, since to speak well was to live well.³² By the end of the eighth century, however, rhetoric no longer was exclusively useful to the art of oratory. As Alcuin’s treatise *On rhetoric and virtues* shows, rhetoric now also had a bearing on the art of writing.

²⁹ Following Cicero, Alcuin distinguished between virtues that were part of human nature and virtues that were part of social conventions. Cf., e.g. Alcuin, *Disputatio de Rhetorica*, ed. HALM, p. 548: “*Iustitia est habitus animi ... partim illa est ex naturae iure, partim ex consuetudinis usu*” (*The Rhetoric of Alcuin and Charlemagne: A Translation with an Introduction, the Latin Text, and Notes*, tr. W.S. HOWELL (Princeton, London and Oxford, 1941), p. 147: the “disposition to be just finds its source partly in the authority of nature, partly in the authority of accepted conventions”).

³⁰ Tr. HOWELL, p. 147. Ed. HALM, p.548: “*Virtus est animi habitus, naturae decus, vitae ratio, morum nobilitas*”.

³¹ Tr. HOWELL, p. 145. Ed. HALM, p. 548: “... *in quo melius est habendum sermonis studium quam in virtutum excellentia, quae utrumque et scribentibus et legentibus multum prodesse valet?*”. A (more) literal translation would be: “each one of which has the greatest possible benefit on those who write and those who read”.

³² Quintilian, *Institutio oratoria*, 12, 2, ed. and tr. D. A. RUSSEL (Cambridge, MA, and London, 2001: *The Loeb Classical Library* 494) pp.220-221: “*Quando orator est vir bonus, is autem circa virtutem intellegi non potest....mores ante omnia oratori studiis erunt excolendi atque omnis honesti iustique disciplina pertractanda, sine qua nemo nec vir bonus esse dicendi peritus potest.*” (“So, since the orator is a good man, and the concept of a good man is unintelligible apart from virtue ... the orator must above else develop his moral character by study and undergo a thorough training in the honourable and the just”).

Had Socrates known of this development, he would have turned in his grave. For it was Socrates who, according to Plato, had strongly argued that rhetoric was in its very essence a spoken art and should remain so. Although he granted that writing could be of some use, it was at best a playful pastime or a reminder for old age, which should not be taken seriously.³³ The orator should refrain from writing down his speeches for publication, not even for the sake of instructing students.³⁴ Socrates' attack on writing seems to indicate that his contemporaries were using written models in teaching oratory.³⁵ Socrates' pupil Isocrates (436-338 BC), for example, allowed his students to look for examples of virtues in (written) histories and speeches of the past, but he made his allowance reluctantly. When push came to shove, he shared Socrates' view that the fixed, unchangeable nature of writing was no match for the living eloquence of oratory.³⁶ By the first century AD, however, writing became incor

³³ Plato *Phaedrus* 276d, ed. WARMINGTON and tr. FOWLER, p.569: "The garden of letters he will plant for amusement, and will write, when he writes, to treasure up reminders for himself, when he comes to the forgetfulness of old age". Plato *Phaedrus* 277d, ed. WARMINGTON and tr. FOWLER, p.573: "...in the written word there is necessarily much that is playful...no written discourse, whether in metre or in prose, deserves to be taken seriously".

³⁴ The best way to learn the art of oratory, in Socrates' opinion, was through oral instruction by a reliable teacher, who had proven himself of virtuous character, and not through reading written speeches by an author whom one did not know personally. (Cf. the quotations, *supra*, in n. 3). In Plato's *Phaedrus*, the conversation between Socrates and Phaedrus begins with Socrates discovering that his favorite pupil, Phaedrus, hides a written speech of the famous orator Lysias under his cloak. He teases Phaedrus with his naïve reliance on someone else's (written) words. Plato, *Phaedrus*, 228d, ed. WARMINGTON and tr. FOWLER, p.418-419. Quintilian records the following story about Socrates' strong opinion regarding the use of written speeches in (judicial) oratory: "Lysias, who was regarded as the leading orator of the time, offered him [Socrates] a written defense, but he refused it, thinking it good, but not suitable for him....His action did nothing for his acquittal, but more importantly, it did much for him as a human being" (Quintilian, *Institutio oratoria*, 11, 1, ed. and tr. RUSSEL, p.15).

³⁵ This observation is made by J.J. MURPHY, "Quintilian's influence on the teaching of speaking and writing in the Middle Ages and Renaissance", in: ID. *Latin Rhetoric and Education in the Middle Ages and Renaissance* (Aldershot and Burlington, 2005: *Variorum Collected Studies Series*) pp. 158-183, at p. 160.

³⁶ Isocrates, *Against the sophists* 21, 22, ed. in: *Isocrates*, ed. T.E. PAGE and tr. G. NORLIN (Cambridge, MA and London, 1929, repr. 1962: *The Loeb Classical Library* 229), pp.162-177, at p.177. MURPHY, "Quintilian's influence", p. 160, uses this passage to argue that the imitation of selected written models was at the core of Isocrates' teaching. Isocrates, who started his career as a logographer (a courtroom speechwriter) and later set up his own school of rhetoric, was, however, reluctant in granting permission. Earlier in the same speech he voices objections against teachers who had no qualms using written precepts of rhetoric: "I marvel when I observe these men setting themselves up as instructors of youth who cannot see that they are applying the analogy of an art with hard and fast rules to a creative process. For, excepting these teachers, who

porated in the theory of rhetoric. Roman rhetorical treatises such as Quintilian's *Institutio oratoria* included a chapter on how to record a speech in writing. Writing was considered one of the skills the orator in training had to master in order to become a successful rhetorician. Although Quintilian (c. 35- c. 100 AD) considered writing a valuable aid to memorization, he did not view it as an art that in itself was anything like the equal of the art of speaking. Writing was merely an external aid, an *auxilium extrinsecus* in the pursuit of eloquence.³⁷ Likewise virtues were thought to have bearing on the speech and the comportment of the orator, not on his writing. To my knowledge, Alcuin was the first to insist that the *mores*, which in ancient oratory had characterized the 'good orator' could equally apply to the 'good writer' and the 'good reader'.³⁸ Alcuin's treatise *On rhetoric and virtues* testifies to a process by which the classical rules of rhetoric came to affect the art of writing; a process that would even-

does not know that the art of using letters remains fixed and unchanged, so that we continually and invariably use the same letters for the same purposes, while exactly the reverse is true of the art of discourse?" (Isocrates, *Against the sophists* 12, ed. PAGE and tr. NORLIN, p.171). See also, in the same speech, Isocrates' view on the relation between teaching virtues and trust: "But men who inculcate virtue and sobriety – is it not absurd if they do not trust (πιστεύειν) in their own students before all others? For it is not to be supposed that men who are honorable and just-dealing with others will be dishonest with the very preceptors who have made them what they are" (Isocrates, *Against the sophists*, 6, ed. PAGE and tr. NORLIN, p.167).

³⁷ Quintilian, *Institutio oratoria*, 10, 3, ed. and tr. RUSSEL, p 337-353. For Quintilian's view on writing as an *auxilium extrinsecus*, see, *ibid.*, 10, 3, p.337. Quintilian's objections regarding the risks of writing can be found at the end of the section devoted to the external aids of oratory. *Ibid.*, 10, 7, p.389: "Reliance (*fiducia*) on [written notes] makes us careless about learning by heart, and it mutilates and deforms the style. Personally, I am against writing anything we do not propose to memorize, because in this situation too our thoughts may revert to our carefully worked-up text and prevent us from taking any chance that presents itself. So the mind wavers between two alternatives: it has lost the written version and is not looking for anything new".

³⁸ Alcuin's treatise *On rhetoric and virtues* is not the only work in which the author reflected on the relation between (Stoic) virtues and rhetoric, be it spoken or written. In his treatise *On Dialectics*, Alcuin recommends his reader to practice virtues like *temperantia* to ensure that one's style is properly measured and is "neither too severe, neither too flattering" (Alcuin, *De Dialectica*, 11, ed. in: J.-P. MIGNE, *Patrologia latina* 101 (Paris, 1863) p. 963. Another late eighth-century example of a text that shows up the interrelation between virtues and *litterae* – a text to which Alcuin probably contributed – is the *Epistola de litteris colendis*, c. 29, ed. in: *Capitularia regum Francorum*, 2, ed. A. BORETIUS and V. KRAUSE (Hannover, 1890-1897: *MGH Capitularia regum Francorum* 2), p. 79: "...qualiter, sicut regularis norma honestatem morum, ita quoque docendi et discendi instantia ordinet et ornet seriem verborum, ut, qui Deo placere appetunt recte vivendo, ei etiam placere non negligent recte loquendo". Although the letter concerns the promotion of rhetoric and grammar, it is not certain that, here, the *mores* pertain to writing as well as to speaking, as the text only mentions *recte loquendi*. The remainder of the letter, however, suggests that speaking, writing and correct moral behaviour, are on a par.

tually result in the rise of the *Ars dictaminis* in the eleventh century.³⁹ As Alcuin was one of the driving forces behind what we are used to call the Carolingian Renaissance, it is not surprising that he emphasized the importance of writing. The practice of Roman forensic oratory declined in early medieval society, while grammar and rhetoric became increasingly text-based.⁴⁰ It is therefore likely that rhetoric and writing had already become intricately connected long before the age of Alcuin. What is new in Alcuin's work, however, is that he makes this connection explicit,⁴¹ and, moreover, relates it to a moral standard. Virtues that originally derived from Cicero's repertoire, such as the

³⁹ Theoretical treatises on the application of rhetorical principles on the art of writing did not come into being before the eleventh and twelfth centuries. It is true that in the fourth century AD the Roman rhetorician C. Julius Victor added an appendix to his *Ars rhetorica* on the writing of letters, but Victor was of the opinion that the rules of rhetoric did not apply to letter-writing; rather, the style of a letter should be guided by the rules of informal discourse (*sermo*) (C. Julius Victor, *Ars rhetorica*, ed. in: *Rhetores latini minores*, ed. C. HALM (Leipzig, 1863), pp. 371-448, at pp. 447-448). Julius Victor's *Ars rhetorica* was one of the sources on which Alcuin drew in his treatise *On rhetoric and virtues*. Alcuin's work reveals that by the end of the eighth century the ethics of rhetoric (termed 'orthopraxes' by Paul Gehl) applied to reading and writing, at least in practice. For the time being, however, this practice did not result in theoretical texts that dealt with the interconnection of rhetoric, ethics and writing before the emergence of the *Ars dictaminis* – the art of letter-writing – in the eleventh century. P.F. GEHL, "Latin orthopraxes", in: *Latin Grammar and Rhetoric: From Classical Theory to Medieval Practice*, ed. C.D. LANHAM (London, 2002), pp. 1-21; J.J. MURPHY, *Rhetoric in the Middle Ages: A history of Rhetorical Theory from Saint Augustine to the Renaissance* (Berkeley, Los Angeles and London, 1974), chapter 5: "Ars dictaminis", pp. 194-268. For earlier traces of the influence of rhetoric on letter writing, see: C.D. LANHAM, "Freshman composition in the early Middle Ages: Epistolography and rhetoric before the ars dictaminis", *Viator: Medieval and Renaissance studies* 23 (1992), pp. 115-134.

⁴⁰ GEHL, "Latin orthopraxes", p. 3. Although forensic (judicial) oratory largely lost its function in early medieval society, epideictic oratory did survive in the form of declamations and ceremonial speeches at the courts of emperors and the imperial families. G.A. KENNEDY, *Classical Rhetoric and Its Christian and Secular Tradition from Ancient to Modern Times* (London, 1980), p. 173. As Alcuin's *On rhetoric and virtues* is almost entirely devoted to judicial speech ("genus iudiciale") and to "civil questions" ("questiones civiles"), we may conclude that forensic oratory must still have played some role at civil and ecclesiastical courts in Alcuin's days.

⁴¹ It is revealing that Alcuin acknowledges his dialogue *On rhetoric and virtues* to be a written text, while at the same time evoking the scene of a lively conversation that takes place in real time. Alcuin, *Disputatio de Rhetorica*, ed. HALM, p. 548: "Albinus: '...[virtutes] de quibus plura dicere potuissem, si non disputatio nostra ad finem festinaret'. Karlus: 'Non tamen te, magister, dimittam calamum'" (tr. HOWELL, p. 145: "Alcuin: 'I should have been able to make various observations upon the subject of virtues, if our dialogue were not in its last stages'. Charlemagne: 'Nevertheless, o master, I (cannot) permit you to throw down your pen'"). Alcuin thus points outside the literary framework of the dialogue to reveal its written character.

ones called *fides* and *fidencia*,⁴² became part of an ethic of writing.⁴³ In Alcuin's ethical programme these virtues acted as the 'parents' that, according to Socrates, were sorely missing in the protection of the written word once it was separated from its author. In the intellectual circles frequented by Alcuin, virtues provided a quality check on the content of writing and were proof of an author's good intentions. If an author was of impeccable moral standard and possessed qualities such as *fidencia* ('confidence'), *honestas* ('honesty'), *veritas* ('truthfulness'), *constantia* ('stability of character'), there was a good chance that his words, in spoken or written form, were reliable as well.⁴⁴ However, these virtues could hardly protect writing from the danger of abuse and misinterpretation once the written word had left the author's sight.⁴⁵

⁴² Instead of *fiducia*, Alcuin used the word *fidencia*, which he borrowed from Cicero. *Fidencia* was a neologism coined by Cicero to denote a philosophical type of (self-)confidence. Cicero, *Tusculanae Disputationes*, IV, 37, 80, ed. T.H. PAGE and tr. J.E. KING (Cambridge, MA, and London, 1927, repr. 1989: *The Loeb Classical Library* 141), p. 418: "... *fidencia, id est firma animi confisio, scientia quaedam est et opinio gravis non temere adsentientis* ..." ("... self-confidence, that is steadfast reliance of soul, is a kind of knowledge and firm belief where assent is not rashly given ...").

⁴³ The relation between rhetoric and *fides* in classical and medieval thought makes rhetoric an interesting field for studying the conceptual development of 'trust'. Cicero for one regarded rhetoric to be at the root of civilization, since oratory had learned people "how to keep faith and observe justice" ("*fidem colere et iustitiam retinere*") (Cicero, *De inventione*, 1, 3, ed. in: Cicero, *De inventione, De optima genere oratorum, Topica*, ed. J. HENDERSON and tr. H.M. HUBBELL (Cambridge, MA, and London, 1943, repr. 2000: *The Loeb Classical Library* 386), pp. 3-345, at p. 7). Alcuin quotes this passage from Cicero in his *Disputatio de Rhetorica* (ed. HALM, p.525,526; tr. HOWELL, p.69). In the anonymous *Rhetorica ad Herennium*, a Latin rhetorical treatise of the first century BC that became a popular handbook of rhetoric throughout the Middle Ages, '*fides*' referred to the effect of the orator's persuasive speech in gaining the credence of the audience ("*fides auditoribus*") (*Rhetorica ad Herennium*, 1, 10, ed. J. HENDERSON and tr. H. CAPLAN (Cambridge, MA and London 1954, repr. 2004: *The Loeb Classical Library* 403), p. 19.

⁴⁴ It should be noted that Alcuin did not 'invent' this ethical programme; it derived from Cicero, whose stoic values were of major influence on the formation of Christian ethical thought. Furthermore, the discussion of virtues in advisory literature for kings was part of a tradition older than Alcuin (see the literature mentioned *supra*, in n. 26) Martin of Braga (520-579/580), e.g., in his *Formula vitae honestae* applied the stoic virtues (amongst which *fiducia*) to proper conduct and correct speaking, but he did not make a connection to writing, as Alcuin was to do two centuries later. Martin of Braga, *Formula honestae vitae*, ed. in: *Martini Episcopi Bracaraensis Opera omnia*, ed. C.W. BARLOW (New Haven, 1950), pp. 236-250. I thank Jasmijn Bovendeert for sharing her findings with me. For the growing interconnection between *litterae* and *mores* from the tenth century onwards, notably in the cathedral schools, see C.S. JAEGER, *Scholars and Courtiers: Intellectuals and Society in the Medieval West* (Padstow, 2002).

⁴⁵ That Alcuin was aware of the dangers that faced a text as soon as it was sent into the world, is expressed in his poem *De Patribus Regibus et Sanctis Euboricensis*, where he talks about the sea monsters threatening his poem on its journey over sea (Alcuin, *Carmina*, in: *Poetae*

Rather of Verona and the Risk of Publication

Alcuin's dialogue, meant simultaneously as a prince's mirror and a treatise on rhetoric, offers an interesting view on how trust, in the virtues *fides* and *fidencia*, was related to the art of writing. After the disintegration of the Carolingian empire, no new mirrors for princes were written for some time.⁴⁶ The political instability of the late-ninth and early tenth century apparently did not offer a climate that induced authors to write treatises admonishing rulers on how to organize society. There is one exception. One author, bishop Rather of Verona (889-974), rose to the occasion and wrote a mirror during the first half of the tenth century. The book, called *Praeloquia* (*Book of Prefaces*) or *Meditations of a Man in Exile*, built on Alcuin's ethical programme and offered advice to all ranks and layers of society, emphasizing the importance of fidelity, loyalty, respect and truthfulness in personal relationships.⁴⁷ The message itself was hardly new. Stressing the importance of fidelity had been a hallmark of the literary genre of the prince's mirrors. What makes this case particularly interesting is that at the time of writing the author was imprisoned for breaking his oath of fidelity to King Hugh of Italy. Apparently the suspicious circumstances did not keep him from offering advice on loyalty to others. This paradox may be explained by the apparently changed attitude to *fides* in the sense of fidelity. The ideals had remained the same as before, as Rather's mirror clearly shows,

Latini aevi Carolini (I) (Berlin, 1881: *Monumenta Germaniae Historica: Poetae latini medii aevi* 1) pp.169-206, at p.198: "Et rege nunc nostram pelagi per caerula cymbam/ inter monstra maris, scopulosas inter et undas/ ut possit portum portans attingere tutum"). For nautical metaphors expressing a concern with criticism of one's writing, see *infra*, n. 64.

⁴⁶ In the East-Frankish, later German realm mirrors for princes were not written for several hundred years. Anton, in the introduction to his edition *Fürstenspiegel des frühen und hohen Mittelalters*, ed. H.H. ANTON (Darmstadt, 2006: *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters* 45) p.6, mentions Rather of Verona's *Praeloquia* as an exception.

⁴⁷ Rather of Verona, *Praeloquia* or *Meditationes cordis in exilio cuiusdam Ratherii*, ed. in: *Ratherius Veronensis Opera*, ed. P.L.D. REID, F. DOLBEAU and B. BISCHOFF (Turnhout, 1984: *Corpus Christianorum: Continuatio Mediaevalis* 46a), pp. 3-196. Rather wrote the *Praeloquia* between 936 and 939, during his imprisonment in Pavia. The third book of the *Praeloquia*, which examines the office of the king, uses Alcuin's *On rhetoric and virtues* as its main source. Although the *Praeloquia* is technically not a treatise on rhetoric, throughout Rather makes an issue of how to speak, when to speak and when to remain silent. Rather's expertise in rhetoric was widely acknowledged, by his contemporaries as well as by modern scholars. Cf. G.A. KENNEDY, *Classical Rhetoric and Its Christian and Secular Tradition from Ancient to Modern Times* (London, 1980), p. 185: "Boethius' work is symptomatic of the death of Roman rhetoric, RATHERIUS' perhaps of the rebirth of new rhetorical possibilities".

but they went hand in hand with a pragmatic attitude.⁴⁸ Conrad Leyser has recently shown that changing one's allegiance was no longer considered a disgraceful act in itself. A new set of ethical norms developed, in which character assessment and motivation became important criteria to judge acts of loyalty and disloyalty.⁴⁹ As Rather of Verona put it in his own defence, people can do the wrong things for the right reasons, and therefore one should not judge the deed itself, but the motives behind it.⁵⁰ His own intentions in breaking his oath of fidelity to king Hugh, he assured, had been utterly noble and unselfish.⁵¹

⁴⁸ Liutprand of Cremona discussed bishop Rather's betrayal to king Hugh in a rather matter-of-fact tone in his *Antapodosis*, without passing moral judgment. Liutprand, *Antapodosis*, 3, c. 48-52, ed. in: *Quellen zur Geschichte der sächsischen Kaiserzeit*, ed. and tr. A. BAUER and R. RAU (Darmstadt, 1971: *Ausgewählte Quellen zur deutschen Geschichte des Mittelalters* 8), pp. 242-495, at pp. 396-399. Another form of 'disloyalty' that came to be taken more or less for granted during the tenth century was the growing habit of bishops to abandon their episcopal see for another, more promising diocese. In terms of canon law this was a serious form of infidelity: the bond between a bishop and his community was like a marital bond that should not be broken. Ph. DEPREUX, "Entre idéal de fidélité et pragmatisme pastoral: Les translations épiscopales en Occident, de l'Antiquité tardive au Moyen Âge central", paper given at the seminar *La mobilité des clercs: Hiérarchie ecclésiastique, pensée ecclésiale et liens personnels au Moyen Âge – Les translations épiscopales* (Limoges, 30 March 2007). Although canon law was very clear on this matter, it became nevertheless a common practice during the tenth century for bishops to leave their see. S. SCHOLZ, *Transmigration und Translation: Studien zum Bistumswechsel der Bischöfe von der Spätantike bis zum Hohen Mittelalter* (Köln, Weimar and Wien, 1992). Conrad Leyser argues that during the tenth century a new set of ethical criteria was developed to turn episcopal transference, previously regarded as a form of disloyalty, into an acceptable mode of behaviour. C. LEYSER, "Promiscuity and professionalisation: Sexual slander and episcopal transfer in Liutprand of Cremona's *Antapodosis*", paper given at the *International Medieval Congress* (Leeds, 9-10 July 2007) (in preparation for publication).

⁴⁹ See LEYSER, "Promiscuity and professionalisation".

⁵⁰ Rather, *Praeloquia*, 4, 7, ed. REID *et al.*, p. 110: "... non de opere sed de intentione noverimus iudicare. Quid enim si hoc bona, quia iusta, egit intentione?".

⁵¹ In his *Praeloquia*, written while in prison, Rather did not deny his betrayal of king Hugh, but claimed he had had a good reason to do so. Years after his release from prison, he wrote a letter to Pope Agapeth II to explain he never intended to harm king Hugh: "From the time I first saw him [king Hugh] until the day he died I always wished for him the felicity of the emperor Theodosius, and still at his memory I am greatly affected with grief" (ed. in: *Die Briefe des Bischofs Rather von Verona*, ed. F. WEIGLE (Weimar, 1949: *MGH: Die Briefe der deutschen Kaiserzeit* 1), pp. 33-43, at p. 36; tr. in: P. REID, *The Complete Works of Rather of Verona: Translated with an Introduction and Notes* (New York, 1991: *Medieval and Renaissance Texts and Studies* 76), p. 225. Breaking his oath of loyalty to king Hugh did not, in his view, necessarily make him a disloyal and untrustworthy person. King Otto I of Germany seems to have shared this view: Otto had no qualms to appoint the former prisoner and exile as bishop of Liège and to entrust him with the education of his own brother, Bruno. That Rather had betrayed his former king and lord seems to have been no objection to appoint him again to high office.

Still, Rather willingly confessed that he, the author of the *Praeloquia*, was a sinner, an exile and a fickle man, who did not possess that one virtue recommended by Alcuin, *constantia* ('stability of character') which would have qualified him to speak to others, and to offer his advice in writing.⁵²

The tenth century enjoys the dubious reputation of being the all-time low in the history of medieval literacy. The first half of the tenth century witnessed a decline in the production of texts and manuscripts, although the situation was not as bad as has long been presumed. There were reasons for not producing yet another copy of a standard author if your monastery already possessed one, and there are marked regional differences both in pragmatic literacy and in the literacy of the learned elites.⁵³ Nevertheless, it is not all that surprising that the Carolingian type of 'trust' in writing declined. Due to political instability, faith in the power of government diminished, and as a consequence the attitude towards *fides* in the sense of fidelity in personal relationships changed. Rather of Verona, who expressed his views on the right order of society from an Italian prison, wondered that people so easily put their trust in written promises like royal charters. "[As] if one can be protected by mere words on a piece of parchment today, which, if destroyed tomorrow by fire, water or old age, carry no weight". It was far more advisable, he continued, to respect the edicts of God, "whose words do not pass on when the earth and heaven pass on".⁵⁴ This seems

⁵² Rather often contrasts his own *inconstantia* and *levitas* to Augustine's *constantia*. Augustine, according to Rather, was allowed to speak out, because "he had the skill of his eloquence for uttering it and the quality of his life merited it" (Rather, *Praeloquia*, 3, 31, ed. REID *et al.*, p. 103; tr. REID, *The Complete Works*, p. 119). If he, Rather, on the other hand would be bold enough to address a king with advice "you would either call me base or subordinate or say that I was mad" (Rather, *Praeloquia*, 4, 24, ed. REID *et al.*, p. 131; tr. REID, *The Complete Works*, p. 146). "I prefer to make this point with someone else's authority than my own, which is none beyond my office [of bishop]; for even if I could set it down worthily, I know it would not be received by you with a willing heart" (referring to his status as a prisoner) (Rather, *Praeloquia*, 4, 23, ed. REID *et al.*, p. 129; tr. REID, *The Complete Works*, p. 144).

⁵³ On tenth-century manuscript production, see the work of E. BURINGH, *On Medieval Manuscript Production in the Latin West: Explorations with a Global Database* (in preparation). On charters and their use, see K. HEIDECKER, "Communication by written texts in court cases: Some charter evidence (ca. 800-ca. 1100)", in: *New Approaches to Medieval Communication*, ed. M. MOSTERT (Turnhout, 1999: *Utrecht Studies in Medieval Literacy* 1), pp. 101-126, at pp. 101-102.

⁵⁴ Rather, *Praeloquia*, 4, 12, tr. REID, *The Complete Works*, p. 131. Ed. REID *et al.*, p. 116: "*si litteris sententia prolata hodie quidem subsistentibus, cras vero aut igne, aut aqua aut vetustate deletis nullum robur obtinentibus, ita custoditur, qua reverentia, quo timore illius debent servari edicta, cuius celo et terra transeuntibus non transeunt verba* (Mc 13, 31)". Cf. Paschasius Radbertus, *De fide*, ed. B. PAULUS (Turnhout, 1990: *Corpus Christianorum: Continuatio Mediaevalis* 97), p. 13.

to read like a strong statement against the reliability of the written word. What was at issue here, however, was the instability of human promises,⁵⁵ not the written word – although Rather recognized the fragility of its carrier, parchment. He held the art of writing in high esteem and regarded the neglect of writing in his own age as a sign that the end of time was near. He thought that writing could help prevent society from further sliding down the slope of moral deterioration.⁵⁶ Rather strongly believed in writing (and copying) as an antidote to forgetfulness, and as a way of preserving important cultural values. Writing prevented loss of memory – the memory of the deeds of the ancestors, of the lives of the saints, but also of one's own wrongdoings.⁵⁷ It protected against loneliness and madness and, what is most important, it led to better knowledge of oneself. At the end of the prologue to his twenty *Books of Madness* – all written around 955, the year when Rather was banished once more – he explains that through the act of reading and writing in times of need “there developed within me a surer practice and a surer awareness of myself”.⁵⁸ The process of writing the *Books of Madness* helped him to recover from a personal crisis and to emerge from it “a reformed man”.⁵⁹ The books themselves, however, he

⁵⁵ Rather's words specifically referred to charters of *mundiburdīs* (roughly ‘protection’; cf. J.F. NIERMEYER and C. VANDEKIEFT, *Mediae Latinitatis Lexicon Minus* (Leiden, 1976), pp. 708-709)). He questioned the claim of stability of royal immunities, which, considering the political instability of the tenth century is hardly surprising. In a situation where change of rule took place frequently, people had little reason to trust that a promise of royal protection would last “forever”, as the language of the charter implied. This doubt was not peculiar to the tenth century. As Petra Schulte has shown, the stability of royal guarantees that were recorded to last forever, was often at issue, regardless of whether the political situation gave rise to doubt. P. SCHULTE, “Wann endet die Ewigkeit? Wortbruch, Instabilität und das Postulat der Dauer im französischen Spätmittelalter”, in: *Das Sein der Dauer*, ed. A. Speer and L. WEGENER (in the press).

⁵⁶ Rather, *De translatione sancti Metronis*, 2, 3, ed. in: Ratherius Veronensis, *Opera minora*, ed. P.L.D. REID (Turnhout, 1976: *Corpus Christianorum: Continuatio Mediaevalis* 46), pp. 13-14.

⁵⁷ See the previous note and Rather, *Praeloquia*, 6, 26, ed. REID *et al.*, pp. 194-195.

⁵⁸ Rather, *Phrenesis*, 22, ed. REID *et al.*, p. 217: “*Nascebatur enimvero mihi et exercitatio interim meique ipsius cognitio certior*”. See also Rather, *Praeloquia*, 6, 25, 26 ed. REID *et al.*, pp. 194-195, tr. REID, *The Complete Works*, pp. 205-206: “I decided to put at the end of the work my reasons for venturing to write this book ... while wrapped up in my sufferings, I want to inspect what I have lately been, what I am now, what I have not been, what I am not now, what I ought to be or what I ought to have been ... Note, then, reader, the torment which drove me to this, the calamity, the crisis, which showed me these paths of writing”.

⁵⁹ Rather of Verona, Letter to Bruno of Cologne (955), ed. *Die Briefe des Bischofs Rather von Verona*, p. 66: “*in virum alterum transformatum et renovatione mentis et spiritus in melioris status efficiam commutatum*”.

destroyed for fear of hurting or offending other people.⁶⁰ He published only its prologue, called *Phrenesis* or *The Ravings of a Madman*.

Despite the beneficial power he attributes to the act of writing and reading in the pursuit of self-knowledge, Rather of Verona also acknowledged the risks that writing, or rather publication, involved. Once a written text was sent into the world, it could easily fall into the wrong hands, be abused and misinterpreted, and defiled by critics. In the end, it could even turn against the author himself, as Rather warns his audience.⁶¹ His uneasiness about publishing his writings reminds us of Socrates' qualms about the written word. In studies on literacy, Plato's famous passage on the invention of writing and the danger it represents is usually quoted in isolation – just as I have done at the beginning of this article. If one reads the entire passage in Plato's *Phaedrus*, however, it appears that Socrates' objections against writing as an orphaned mode of communication have more to do with publication than with writing per se. As long as an author keeps his writings to himself, little harm is done.⁶² But when writings are distributed, real troubles begin. According to Socrates,

Every word, when once it is written, is bandied about alike among those who understand and those who have no interest in it, and it knows not to whom to speak or to whom not to speak; when ill-treated or unjustly reviled ... it has no power to protect itself.⁶³

Rather's fear that his work might be badly received was shared by many authors, in Antiquity and throughout the Middle Ages. It became a *topos* in prologues and epilogues, where authors expressed a concern about their work's fate.⁶⁴ Sometimes a prayer was added by way of safe conduct, to ensure that

⁶⁰ Rather, *Phrenesis*, 18, ed. REID *et al.*, p. 213. Apart from the Proemium and the Prefatio, called *Phrenesis*, the index of the titles of Rather's *Books of Madness* has survived (Rather, *Breviarium librorum suorum*, ed. in: Ratherius Veronensis, *Opera*, ed. REID *et al.*, pp. 203-204).

⁶¹ Rather, *Phrenesis*, 20, ed. REID *et al.*, p. 214.

⁶² Plato, *Phaedrus* 276c-276d, ed. WARMINGTON and FOWLER, pp. 567-569.

⁶³ Plato, *Phaedrus*, 275e, .ed. WARMINGTON and FOWLER, p. 567.

⁶⁴ A metaphor that was often used to express concerns with the reception of one's writing was related to nautical imagery. Sending forth one's writing was compared to a ship that was heading for the sea without the help of a navigator, while heavy storms and possible shipwreck lay ahead with little hope of ever reaching a safe harbour. The safe harbour in this imagery stood for a favourable reception of one's writing, and stormy weather for any harsh criticism the work might encounter. K.R. GRINDA, *Enzyklopädie der literarischen Vergleiche: Das Bildinventar von der römische Antike bis zum Ende des Frühmittelalters* (Paderborn, 2002), pp. 414-471, esp. 454-455. The same metaphor is also used in colophons. See M. MOSTERT, "Zoals een zeeman aan het einde van de reis", *Madoc, tijdschrift over de Middeleeuwen* 13 (1999), pp. 195-202 and the

one's writings would be received favourably, that the words would not give offence, be misinterpreted or submitted to harsh criticism by envious critics.⁶⁵ The best way to prevent this from happening, according to Rather, was to offer one's writings to a trusted friend for correction and criticism. Furthermore, he advised never to publish rashly.⁶⁶ To illustrate his views on the matter, Rather drew on the Roman satirist Horace, who had given the following advice to aspiring poets:

You will say nothing and do nothing against Minerva's will; such is your judgment, such your good sense. Yet, if you ever do write anything, let it enter the ears of some critical Maecius, and your father's and my own; then put your parchment in the closet and keep it back till the ninth year. What you have not published you can destroy; but the word once sent forth can never come back.⁶⁷

literature mentioned there. For Rather's use of this metaphor, see Rather, *Praeloquia*, 3, 1, ed. REID *et al.*, p. 94.

⁶⁵ One strategy to counter criticism and misinterpretation was to issue *retractationes*, in imitation of Augustine. Although the Latin *retractationes* should not be equated with English 'retractions' but rather with 're-treatments' or 'revisions', it was still a means to take back what had already been published and to take on the role of censor oneself, before others would. As Augustine asserted to Bishop Quodvultdeus, he would himself censure anything in all of his accumulated writings that "offends [him] or might offend others" (M.I. BOGAN, *The Retractions by St. Augustine* (Washington, 1968: *The Fathers of the Church* 60), p. XIII, referred to by A. OBERMEIER, *The History and Anatomy of Auctorial Self-Criticism in the European Middle Ages* (Amsterdam, 1999: *Internationale Forschungen zur allgemeinen und vergleichenden Literaturwissenschaft* 32), p. 53).

⁶⁶ Rather, *Phrenesis*, 19-20, ed. REID, pp. 213-214, with reference to Horace's warning against "letting the word out". For a late medieval example of regret after hasty publication, see Aeneas Sylvius Piccolomini (1405-1464; Pope Pius II), *Bulla Retractationum*, in: ID., *Opera quae extant omnia* (Basel, 1551; repr. Frankfurt, 1967), pp. 1-8, at p. 1: "*Pudet erroris, poenitet male fecisse & male dictorum scriptorumque, vehementer poenitet: plus scripto, quam facto nocuimus. Sed quid agamus? Scriptum et semel emissum volat irrevocabile verbum. Non sunt in potestate nostra scripta, quae in multas inciderunt manus & vulgo leguntur. utinam latuissent quae sunt edita*". Tr. OBERMEIER, *The History and Anatomy of Auctorial Self-Criticism*, p. 92: "I regret my bad words and my writings, I regret them immensely; I have sinned more through my writings than my actions. But what should we do? One cannot recall the written and sent-out word. That writings that have fallen into many hands and that are widely read are not under my control. I wish that what has appeared had remained hidden". Piccolomini calls on every writer who has, like him, sent out the written word too rashly (in "youthful ignorance") to issue *retractationes*, just as Augustine had done.

⁶⁷ Horace, *Ars poetica*, ed. in: Horace, *Satires, Epistles and Ars Poetica*, ed. E.H. WARMINGTON and tr. H.R. FAIRCLOUGH (Cambridge, MA, and London, 1970: *The Loeb Classical Library* 194), p. 483: "*Tu nihil invita dices faciesve Minerva; id tibi iudicium est, ea mens. Si quid tamen olim scripseris, in Maeci descendat iudicis auris et patris et nostras, nonnumquam prematur in annum membranis intus positis: delere licebit quod non edideris; nescit*

From Trust to Distrust?

"The word once sent forth can never come back". In the present age of hasty publication on the Internet this is a warning we can all take to heart. Like Socrates, we should be wary of the dangers of publication, one of the manifestations of the written word. Distrusting publication might induce a healthy distrust of the word in all its manifestations, spoken, written, printed and in electronic form. For trust is never given once and for all. It can be earned, but it may also be lost. The written word has to earn our trust as once it had to earn the trust of our medieval forebears. Trust cannot be taken for granted.

